

No. 10389

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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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CONSOLIDATED AIRCRAFT CORPORA-  
TION,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,  
Respondent.

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Transcript of Record

In Two Volumes

VOLUME I

Pages 1 to 496

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Upon Petition for Review and Enforcement of an Order  
of the National Labor Relations Board

**FILED**

**JUL 29 1943**

**PAUL P. O'BRIEN,**  
CLERK





L. F. A. L.

1912-1913



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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BOARD'S EXHIBIT 1-A

United States of America  
Before the National Labor Relations Board  
Twenty-first Region

Case No. XXI C 1988

Date Filed July 17, 1942

In the Matter of—

CONSOLIDATED AIRCRAFT CORPORATION

(Name of company)

and

INTERNATIONAL ASSOCIATION OF MA-  
CHINISTS, AIRCRAFT LODGE NO. 1125, AFL

(Name of charging party)

SECOND AMENDED CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that (Full name of company) Consolidated Aircraft Corporation at (Address of establishment) San Diego, California employing (Number) 35,000 workers in (Type of business) aircraft manufacturing has engaged in and is engaging in unfair labor practices within the meaning of Section 8 subsections (1) and (3) and (5) of said Act, in that Consolidated Aircraft Corporation, through its officers and agents, did discharge Arthur J. Fisher on January 1st, 1942, and Oliver H. Williamson on April 14, 1942, because

of their membership and activity in International Association of Machinists, and has at all times since those dates refused to re-employ them, a violation of Section 8, subsection (3) of the Act;

That at all times since June 12, 1941, International Association has been the duly designated bargaining agent of all employees of the company and has been so recognized in a signed agreement by the company, but that at all times since June 12, 1941 the company has bargained in bad faith in the following instances; Given raises to 286 employees to the exact knowledge of the Union, while at no time consulting with the Union in such grants; by giving additional hundreds of increases to certain other employees who have not made known in writing such increases to the Union; that further proof of bad faith in granting increases in considerable numbers in recent weeks is found in the company's knowledge that under its written agreement of wages, hours and working conditions, it is to discuss proposed wage increases for all eligible employees on and after April 1, 1942, many of these employees being the same employees for whom the Union was preparing increase demands; that in 22 specific instances of written record, and numerous other oral statements, the Company has made individual wage agreements with employees, and has in some cases changed rates and scales of pay without consulting the bargaining agent; that prior to February 15, 1942, the company adopted a wage scale in cooperation with other manufacturers and put same into effect without consulting with the Union, and has at all times since refused to

negotiate with the Union in regard to the wage scale; that on or about April 10, 1942 the company arbitrarily raised the minimum requirements of its nurses in its Medical Department without consulting its designated bargaining agent, and by other acts and conduct has not bargained in good faith with its designated agents, a violation of Section 8 (5) and 8 (1) of said Act;

That by the above acts and by discriminating against union committeemen, hindering and preventing them from performing their duties as such committeemen, inducing employees to resign who protested discrimination against union committeemen, threatening the discharge of employees and the cancellation of departmental transfers granted employees if grievances were presented on their behalf, offering rewards to employees to induce them to give up their union membership and union activities, advising employees that the Union would not bargain for them, instructing employees not to remain members of the Union and advising employees that the Union would be of no benefit to them, the Company, through its officers, agents, and employees, has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, in violation of Section 8 (1) of the Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization,

give also the full name, local number and affiliation of organization, and name and official position of the person acting for the organization.)

INTERNATIONAL ASSOCIA-  
TION OF MACHINISTS  
AIRCRAFT LODGE NO. 1125,  
AFL

By ROY M. BROWN

1054 Third St., San Diego, Cali-  
fornia (Franklin 8831)

Subscribed and sworn to before me this 17 day of  
July, 1942. At Los Angeles, California

DANIEL J. HARRINGTON

Field Attorney

2 copies to Bd. 7/18/42 M. A.

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BOARD'S EXHIBIT No. 1-B

[Title of Board and Cause.]

COMPLAINT

It having been charged by International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., hereinafter called the Union, that Consolidated Aircraft Corporation, hereinafter called the Respondent, has engaged in and is engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, approved July 5, 1935, 49 Stat. 449, hereinafter called the Act, the National Labor Relations Board, hereinafter called the Board, by the Regional Director



for the Twenty-first Region, designated as Agent of said board by its Rules and Regulations—Series 2, as amended, hereby issues its complaint and alleges the following:

1. Respondent, Consolidated Aircraft Corporation, is, and at all times herein alleged, was, a corporation organized and existing under and by virtue of the laws of the State of Delaware, having its principal office and place of business at Lindbergh Field in the City of San Diego, County of San Diego, State of California, hereinafter called the San Diego plant, where it is engaged in the design, manufacture, development, and sale of aircraft, aircraft parts, and accessories.

2. Respondent in the course and conduct of its business, as set forth in paragraph 1 above, causes and has continuously caused large quantities of materials to be purchased, obtained, shipped, and transported in interstate commerce from and through states of the United States other than the State of California to its San Diego plant in the State of California and causes and has continuously caused large quantities of products designed, manufactured, and developed at its San Diego plant to be sold and transported in interstate and foreign commerce to, into and through states of the United States other than the State of California and into foreign countries

3 International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., is a labor organization within the meaning of Section 2, subsection (5) of the Act.

4. Respondent, by its officers, agents and employees, including, without limitation, A. Vernon, W. M. Shanahan, H. Liegel, S. Powell and E. Stewart, while engaged at its San Diego plant, as described in paragraphs 1 and 2 above, during February 1940 and during the period from May 1941 up to and including the date of this Complaint, discriminated against union committeemen, hindered and prevented them from performing their duties as such committeemen, induced to resign employees who protested discrimination against union committeemen, threatened the discharge of employees and the cancellation of departmental transfers granted employees if grievances were presented on their behalf, offered rewards to employees to induce them to give up their union membership and union activities, advised employees that the Union would not bargain for them, instructed employees not to remain members of the Union, and advised employees that the Union would be of no benefit to them.

5. Respondent, while engaged at its San Diego plant as described in paragraphs 1 and 2 above, did, on or about January 1, 1942, discharge Arthur J. Fisher and has at all times since said date refused to reinstate the aforementioned employee, for the reason that said employee joined and assisted the Union and engaged in concerted activities with other employees for their mutual aid and protection.

6. Respondent, while engaged at its San Diego plant as described in paragraphs 1 and 2 above, did on or about April 14, 1942, discharge Oliver H. Williamson and has at all times since said date refused



to reinstate the aforementioned employee, except that on or about May 1, 1942, Respondent re-employed said employee with prejudice, however, to the rights and privileges to which said employee was and is entitled, for the reason that said employee joined and assisted the Union and engaged in concerted activities with other employees for their mutual aid and protection.

7. Respondent, by its acts and each of them, as set forth in paragraphs 5 and 6 above, did discriminate in regard to hire and tenure of employment of its employees and did thus discourage and is thus discouraging membership in the Union, and did thereby engage in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subsection (3) of the Act.

8. A unit for the purpose of collective bargaining composed of all hourly paid employees and salaried inspectors at Respondent's San Diego plant, excluding supervisory inspectors and confidential clerks, insures to Respondent's employees the full benefit of the right to self-organization, and otherwise effectuates the policies of the Act, and is therefore a unit appropriate for the purposes of collective bargaining.

9. Prior to June 12, 1941, and at all times thereafter, a majority of Respondent's employees in the unit set forth in paragraph 8 above, did designate the Union as its representative for the purposes of collective bargaining. By virtue of the aforesaid designation the Union is and at all times since June 12, 1941, has been the exclusive bargaining representa-

tive of all employees in the unit set forth in paragraph 8 above, for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

10. Respondent, while engaged at its San Diego plant, as described in paragraphs 1 and 2 above, on or about June 12, 1941, and at all times thereafter, refused and failed, and does now refuse and fail to bargain collectively in good faith with respect to rates of pay, wages, hours of employment, and other conditions of employment with the Union as the exclusive representative of all employees in the unit set forth in paragraph 8 above, and by such acts, and by each of them, did engage in, and is now engaging in, unfair labor practices, within the meaning of Section 8, subsection (5) of the Act.

11. Respondent, by its acts and each of them, as set forth in paragraphs 4, 5, 6, 7 and 10 above, did interfere with, restrain, and coerce, and is interfering with, restraining, and coercing its employees in the exercise of rights guaranteed in Section 7 of the Act, and did thereby engage, and is thereby engaging in, unfair labor practices, within the meaning of Section 8, subsection (1) of the Act.

12. The aforesaid acts of Respondent, as set forth in paragraphs 4, 5, 6, 7 and 10, inclusive, above, constitute unfair labor practices affecting commerce, within the meaning of Section 8, subsections (1), (3) and (5), and Section 2, subsections (6) and (7) of the Act.

13. The aforesaid acts of Respondent as set forth in paragraphs 4, 5, 6, 7, and 10, inclusive, above, oc-

currence in connection with the operations of Respondent, described in paragraphs 1 and 2, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

Wherefore, the National Labor Relations Board on the 23rd day of July, 1942, issues its complaint against Consolidated Aircraft Corporation, Respondent herein.

[Seal]

WILLIAM R. WALSH

Director, Twenty-first Region  
National Labor Relations  
Board

808 U. S. Post Office and  
Courthouse  
Los Angeles, California

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BOARD'S EXHIBIT No. 1-C

[Title of Board and Cause.]

NOTICE OF HEARING

Please Take Notice that on the 18th day of August, 1942, at 10:30 o'clock in the forenoon at the Conference Room, Second Floor, Chamber of Commerce Building, San Diego, California, a hearing will be conducted before a duly designated Trial Examiner of the National Labor Relations Board on the allegations set forth in the Complaint attached hereto, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

A copy of the Second Amended Charge upon which the Complaint is based is attached hereto.

You are further notified that you have the right to file with the Regional Director for the 21st Region, with offices at 808 U. S. Postoffice and Courthouse, Los Angeles, California, acting in this matter as agent of the National Labor Relations Board, an answer to the said Complaint, within ten (10) days from the service thereof.

Please Take Notice that duplicates of all exhibits which are offered in evidence will be required unless, pursuant to request or motion, the Trial Examiner in the exercise of his discretion and for good cause shown, directs that a given exhibit need not be duplicated.

In Witness Whereof the National Labor Relations Board has caused this, its Complaint and Notice of Hearing, to be signed by the Regional Director for the Twenty-first Region on this 23rd day of July, 1942.

[Seal]

WM. R. WALSH

William R. Walsh

Regional Director.

National Labor Relations  
Board

Twenty-first Region

808 U. S. Postoffice & Court-  
house

Los Angeles, California

BOARD'S EXHIBIT No. 1-D

[Title of Board and Cause.]

AFFIDAVIT AS TO SERVICE

State of California

County of Los Angeles—ss.

I, Marion Riemer, being duly sworn, deposes and say that I am an employee of the National Labor Relations Board, in the 21st Region at Los Angeles, California, on the 23d day of July 1942, I served by postpaid registered mail, bearing Government frank, a copy of Complaint, Notice of Hearing, Second Amended Charge to the following named persons, addressed to them at the following addresses:

Consolidated Aircraft Corporation  
Lindbergh Field  
San Diego, California

International Association of Machinists  
Aircraft Lodge No. 1125, A.F.L.  
1054 Third Avenue  
San Diego, California

MARION RIEMER

Subscribed and sworn to before me this 23rd day of July 1942.

[Seal]

LILLIAN D. LYONS

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires Nov. 24, 1943.



## BOARD'S EXHIBIT No. 1-E

[Printer's Note: Board's Exhibit No. 1-E consists of two registered mail receipts and two return cards. Registered Mail receipt No. 395126, dated Los Angeles, Calif., July 23, 1942. Return Card receipt for Registered Mail No. 395126 is addressed to National Labor Relations Board, Los Angeles, Calif., and is signed by International Assoc. of Machinists, by N. Christian. Date of delivery, 7-24, 1942. Registered Mail receipt No. 395127, dated Los Angeles, Calif., July 23, 1942. Return Card receipt for Registered Mail No. 395127 is addressed to National Labor Relations Board, Los Angeles, Calif., and is signed by Consolidated Aircraft Corp., San Diego, Calif., by M. R. Powdrill. Date of delivery, July 24, 1942.]

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## BOARD'S EXHIBIT No. 1-F

[Title of Board and Cause.]

## MOTION FOR BILL OF PARTICULARS

Respondent, Consolidated Aircraft Corporation, asserts that the complaint herein and the charges thereto annexed, upon which the complaint is based, fail to state with sufficient definiteness or certainty any act of omission or commission on the part of the respondent so as to enable the respondent to make and properly prepare its defense with respect to the allegations and alleged charges set forth in the complaint, and that the complaint fails

to state the date or time when the acts constituting the said alleged charges were committed, or the name or names of the persons acting on behalf of the respondent who committed such acts, and that it would be hazardous and a denial of due process of law to the respondent to require the respondent to proceed with the hearing on the complaint unless the complaint is amplified by way of a bill of particulars setting forth the details requested by this motion; and therefore respondent demands that such a bill of particulars be furnished to it in due and reasonable time prior to the hearing herein, setting forth in detail the following:

(1) What act or acts were committed or omitted to be done by respondent, its officers, agents, and employees, during February, 1940, and during the period from May, 1941, up to and including the date of the complaint (July 23, 1942) in discriminating against union committeemen in hindering and preventing them from performing their duties as such committeemen, in inducing to resign employees who protested discrimination against union committeemen, in threatening the discharge of employees and the cancellation of departmental transfers granted employees if grievances were presented on their behalf, in offering rewards to employees to induce them to give up their union membership and union activities, in advising employees that the Union would not bargain for them, in instructing employees not to remain members of the Union, and in advising employees that the Union would be of no benefit to them; the name or names

of the officers, agents, and employees of the respondent, other than A. Vernon, W. M. Shanahan, H. Liegel, S. Powell, and E. Stewart, who are alleged to have committed such acts; the dates when such acts were committed; the names of the union committeemen against whom respondent, its officers, agents, and employees are alleged to have discriminated, and who are alleged to have been hindered and prevented from performing their duties as such committeemen; the name or names of the employees who are alleged to have been induced to resign because of alleged protests against alleged discrimination against union committeemen and the dates when such acts were committed; the name or names of the employees who were allegedly threatened with discharge if grievances were presented on their behalf, and the time when such acts were committed; the dates when the respondent, its officers, agents, and employees, allegedly threatened the cancellation of departmental transfers granted employees, and the particular acts with reference thereto; the dates when the respondent, its officers, agents, and employees, allegedly offered rewards to employees to induce them to give up their union membership and union activities, and the names of such employees; the names of employees who were allegedly advised by respondent, its officers, agents, and employees, that the union would not bargain for them, and the dates when such acts were committed; the names of employees who were allegedly instructed by respondent, its officers, agents, and employees, not to remain members of the union,



and the dates when such acts were allegedly committed; and the names of the employees who were allegedly advised by respondent, its officers, agents, and employees, that the union would be of no benefit to them, and the dates when such acts were allegedly committed.

2. The specific acts constituting the charge that respondent on or about June 12, 1941, and at all times thereafter, refused and failed, and does now refuse and fail to bargain collectively in good faith with respect to rates of pay, wages, hours of employment, and other conditions of employment, with the Union as the exclusive representative of all employees in the unit set forth in paragraph 8 of the complaint, setting forth in detail the names of the officers, agents, and employees of respondent who allegedly committed such acts, and the dates when the same are claimed to have been committed.

3. The specific acts constituting the charge, as set forth in the complaint, that respondent did interfere with, restrain, and coerce, and is interfering with, restraining, and coercing its employees, in the exercise of rights guaranteed in Section 7 of the Act, and did thereby engage and is thereby engaging in unfair labor practices within the meaning of Section 8, Subsection (1) of the Act, setting forth in detail the names of the officers, agents, and employees of respondent who allegedly committed such acts, and the dates when the same are claimed to have been committed.

And you will further please take notice that unless respondent is served with a bill of particulars

setting forth the details above requested in a due and reasonable time in advance of the hearing herein, it will be unable to proceed with said hearing and will demand an adjournment thereof for a reasonable time after the service of such bill of particulars.

Dated: July 30, 1942.

CONSOLIDATED AIRCRAFT  
CORPORATION

(Sgd) I. M. LADDON

Vice President and General  
Manager

To:

National Labor Relations Board

21st Region

808 U. S. Post Office and Courthouse

Los Angeles, California

International Association of Machinists

Aircraft Lodge #1125, A.F.L.

1054 Third Street

San Diego, California

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BOARD'S EXHIBIT No. 1-G

[Title of Board and Cause.]

ANSWER

In answer to the complaint filed in the above entitled proceeding, respondent, Consolidated Aircraft Corporation, without prejudice to its motion for a bill of particulars heretofore filed herein, and without waiving the same, admits, denies and alleges as follows:

1. Respondent admits the allegations contained in paragraphs 1, 2, 3, 8 and 9 of the complaint.

2. Respondent denies each and every allegation contained in paragraphs 4, 7, 10, 11, 12 and 13 of the complaint.

3. With respect to the allegations contained in paragraph 5 of the complaint, respondent admits that while engaged at its San Diego plant as set forth in paragraphs 1 and 2 of the complaint, respondent did, on or about January 1, 1942, discharge Arthur J. Fisher, an employee of respondent, and has at all times since said date refused to reinstate said employee. Respondent denies each and every other allegation contained in said paragraph 5.

4. Further answering the allegations contained in paragraph 5 of the complaint, respondent alleges as follows: Under date of June 12, 1941 respondent and International Association of Machinists, Aircraft Lodge No. 1125, A.F.L. (sometimes referred to herein as the "Union"), made and entered into a certain binding agreement in writing with respect to rates of pay, wages, hours, and other conditions of employment, the purpose of which was and is to promote continuity of work by friendly relations between respondent and the Union. Said agreement now is and ever since the 12th day of June, 1941 has been legally binding and in full force and effect. Paragraph 11 thereof provides:

"The Union and the Company (respondent) agree that the regulations set forth in the Company's Rule Book, attached to and made a part of the agreement, are necessary for the effi-

cient operation of the Company's plant, and that infraction of any rule constitutes cause for discharge or disciplinary action".

Rule 2(b) set forth in said Rule Book provides:

"No employee is permitted to leave his department during working hours without the authority of his foreman".

Said Rule 2(b) now is and at all times material hereto was in full force and effect and constitutes a part of said written agreement between respondent and the Union. Said employee Fisher was discharged and respondent has ever since refused to reinstate him because said employee on numerous occasions during his employment with respondent openly and defiantly disregarded said Rule 2(b), was guilty of insubordination in refusing to ask his foreman for permission to leave his department and from time to time secured permission to leave his department by making false representations to his superiors.

5. With respect to the allegations contained in paragraph 6 of the complaint, respondent admits that while engaged at its San Diego plant as set forth in paragraphs 1 and 2 of the complaint, respondent did, on or about April 14, 1942, discharge Oliver H. Williamson, an employee of respondent, and that on or before May 1, 1942 respondent cancelled the record of discharge, changed the disciplinary action to a "lay-off" for two weeks without pay and reinstated said employee, without loss of seniority, or other status. Respondent denies each

and every other allegation contained in said paragraph 6.

6. Further answering paragraph 6 of the complaint, respondent alleges as follows: Said employee Williamson was justifiably disciplined as aforesaid for making an unwarranted disturbance at the place of his work, which caused serious confusion and disruption of work and production. On or about the 15th day of April, 1942 respondent received a written grievance or complaint from the Union with respect to the action taken by respondent with respect to said employee, Williamson, and thereafter, before the proper officials of respondent were afforded a reasonable opportunity to investigate and act upon the same, respondent was advised by the Board that the charge heretofore filed herein by the Union had been amended by the Union to include the action taken by respondent with respect to said employee. Thereafter on April 29, 1942, the matter involving such action was amicably settled to the complete satisfaction of said employee, the Union and respondent, under the terms of which settlement said employee was restored to duty on or about the first day of May, 1942, without loss of seniority, without change in rate of pay and without loss of his status as a Union Committeeman. Respondent is informed and believes, and therefore alleges, that on or about the 30th day of April, 1942, the Union sent a written notice to the Board withdrawing the charges theretofore filed by the Union in connection with the action taken by respondent with respect to said employee. Respondent alleges that by reason of the



foregoing all questions raised by the complaint concerning said employee have become moot and that the Board is without jurisdiction to determine the same or take any action with respect thereto.

7. Further answering paragraph 6 of the complaint respondent alleges as follows: Paragraph 9 of the agreement between the Union and respondent, described in paragraph 4 hereof, provides:

“9. Complaints and Grievances: The Company desires that unfairness to its employees shall not exist, and that complaints shall be settled whenever possible with its foremen in the shop or department where the complaint or grievance originates.

“Whenever a complaint or grievance develops in any shop or department of the Company the following steps shall be taken:

(1) The complainant shall first discuss his case with his foreman in charge in an effort to arrive amicably at a mutually satisfactory settlement. In case this effort fails:

(2) The complainant shall contact his shop chairman or shop committeeman; and they in turn shall together contact the foreman in a further effort to settle the issues involved. In all cases where this effort fails to bring mutual agreement:

(3) The employee and his committeeman or chairman shall immediately reduce to writing on a grievance form the complaint or grievance.

This grievance form is to be filled out in quadruplicate; one copy to remain with the foreman of the department where the complainant is employed; one copy to be retained by the shop committeeman

or chairman; one copy to be forwarded to the general offices of the Union where it will be turned over to the Business Representative charged with the responsibility of servicing the department or shop of the employee involved; and the fourth copy shall be forwarded by the foreman to the Labor Relations Department.

Within twenty-four (24) hours after this grievance form has been filed with the foreman, the shop committeeman or chairman and the employee involved shall meet with the Labor Relations Director or his authorized representative. If the parties above find themselves unable to agree on a settlement within forty-eight (48) hours after the case was referred to them:

(4) Then and in that event the case shall be referred to the Labor Relations Committee of the Company, and the Union Committee composed of the Business Representative and the shop committeeman or chairman of the shop or department involved. These two committees shall meet; and within five days after the case was referred to them, hand down their final decision on the grievance before them. If these two committees are unable to agree:

(5) The case shall be referred to arbitration as provided for in Article 23 of this agreement."

Respondent alleges that the procedure set forth in paragraph 9 of said agreement was not followed in the case of the grievance presented in connection with said employee Williamson; that the Union and said employee failed to pursue and exhaust the

remedies provided thereunder and that the charges filed by the Union with the Board in connection with the action taken by respondent with respect to said employee was premature and affords no basis or ground for the issuance by the Board of a complaint against respondent in respect of said employee.

Wherefore, respondent requests that the complaint herein be dismissed.

CONSOLIDATED AIRCRAFT  
CORPORATION

By W. FRANK PERSONS

Director, Industrial Relations  
Dept.

State of California

County of San Diego—ss.

W. Frank Persons, being first duly sworn, deposes and says that he is Director of the Industrial Relations Department of Consolidated Aircraft Corporation; that he makes this affidavit on its behalf, being authorized so to do; that he has read the foregoing answer and knows the contents thereof and that the same are true.

W. FRANK PERSONS

Subscribed and sworn to before me this 31 day of July, 1942.

[Seal]

BETTINA BENTON SMITH

My Commission Expires Oct. 24, 1945.

Power of Attorney

Know All Men by These Presents, that the un-



dersigned, Consolidated Aircraft Corporation, has made, constituted and appointed, and by these presents does make, constitute and appoint W. Frank Persons its true and lawful attorney for it and in its name, place and stead to make, execute and file an answer to a complaint filed against the undersigned in a certain proceeding pending before The National Labor Relations Board, Twenty-first Region (Case No. XXI-C-1988), entitled "In the Matter of Consolidated Aircraft Corporation and International Association of Machinists, Aircraft Lodge No. 1125, A.F.L.", and further to make, execute and file any and all pleadings, documents and papers necessary or proper in connection with the undersigned's defense in said proceedings, and generally to do and execute all such other matters, acts and things as may be necessary or proper in connection with such defense.

In Witness Whereof, Consolidated Aircraft Corporation has caused its corporate name to be hereunto subscribed this 31st day of July, 1942 by its Executive Vice-President and General Manager, and its duly attested corporate seal to be hereunto affixed by its Secretary.

CONSOLIDATED AIRCRAFT  
CORPORATION

By I. M. LADDON

Executive Vice-Pres. & Gen-  
eral Manager

Attest:

[Seal]

R. A. STANBERRY  
Secretary.

## BOARD'S EXHIBIT No. 1-H

United States of America  
National Labor Relations Board

I, Beatrice M. Stern, Executive Secretary of the National Labor Relations Board, and official custodian of its records, do hereby certify that attached is a full, true, and complete copy of: Order Designating Trial Examiner In the Matter of: Consolidated Aircraft Corporation and International Association of Machinists, Aircraft Lodge No. 1125, A.F.L. Case No. XXI-C-1988.

In Witness Whereof, I have hereunto subscribed my name and caused the seal of the National Labor Relations Board to be affixed this 4th day of August A. D. 1942, at Washington, D. C.

[Seal]

BEATRICE M. STERN  
Executive Secretary.

(Copy)

[Title of Board and Cause.]

## ORDER DESIGNATING TRIAL EXAMINER

A charge having been filed in this matter, and it having appeared to the Regional Director of the 21st Region that a proceeding in respect thereto should be instituted, and the Board having considered the matter and being advised in the premises,

It Is Hereby Ordered that Josef L. Hektoen act as Trial Examiner in the above case and perform all the duties and exercise all the powers granted

to trial examiners under the Rules and Regulations—Series 2 as amended of the National Labor Relations Board.

Dated, Washington, D. C., August 4, 1942.

[Seal]

FRANK BLOOM

Acting Chief Trial Examiner

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BOARD'S EXHIBIT No. 1-I

[Title of Board and Cause.]

ORDER FOR BILL OF PARTICULARS

Upon motion of the respondent for a bill of particulars of the complaint heretofore filed herein,

It Is Hereby Ordered that counsel for the Board furnish to the respondent, on or before August 12, 1942, a bill of particulars, setting forth:

1. The names of the officers, agents, and servants of the respondent by whom it is alleged in Paragraphs 4 and 10 of the complaint to have committed certain unfair labor practices.

2. The approximate dates upon which the respondent is alleged in Paragraph 4 of the complaint to have committed certain unfair labor practices.

In all other respects the motion is denied.

[Seal]

JOSEF L. HEKTOEN

Josef L. Hektoen

Trial Examiner

Dated: August 4, 1942.

## BOARD'S EXHIBIT No. 1-J

[Title of Board and Cause.]

## BILL OF PARTICULARS

Josef L. Hektoen, Trial Examiner, National Labor Relations Board, having issued an Order on August 4, 1942, ordering counsel for the National Labor Relations Board to furnish the Respondent herein a bill of particulars setting forth certain matters,

Comes now Guy Farmer, Attorney, National Labor Relations Board, and for a bill of particulars herein, sets forth the following, expressly reserving, however, his objection and exception to said Order insofar as it requires said bill of particulars and further expressly reserving the right to introduce at the hearing in said matter any and all evidence relevant and material to the issues herein which may be at variance with or in addition to the particular matters set forth herein:

1. In compliance with paragraph 1 of the Order and with respect to paragraph 4 of the Complaint:

The officers, agents, and servants of Respondent alleged to have committed unfair labor practices are A. Vernon, W. M. Shanahan, H. Liegel, S. Powell, E. Stewart, and one Vance of the Respondent's labor relations department.

2. In further compliance with paragraph 1 of the Order and with respect to paragraph 10 of the Complaint:

The officers, agents, and servants of the Respondent alleged in paragraph 10 of the Complaint to

have committed unfair labor practices are D. G. Fleet, Major R. Fleet, I. M. Laddon, J. H. Waterbury, L. D. Larimer, G. J. Newman, H. R. Wiseman, H. Woodhead, Glen Bowers, and W. Frank Persons.

3. In compliance with paragraph 2 of the Order and with respect to paragraph 4 of the Complaint:

Respondent "discriminated against union committeemen" on or about May 1941, June 1941, July 1941, August 1941, September 1941, October 1941, November 1941, December 1941, March 1942, and April 1942;

Respondent "hindered and prevented union committeemen from performing their duties" on or about May 1941, June 1941, July 1941, August 1941, September 1941, October 1941, November 1941, December 1941, and April 1942;

Respondent "induced to resign employees who protested discrimination against union committeemen" on or about April 24, 1942;

Respondent "threatened the discharge of employees and the cancellation of departmental transfers granted employees if grievances were presented on their behalf" on or about April 28, 1942;

Respondent "offered rewards to employees to induce them to give up their union membership and union activities" on or about February 1940, and some time subsequent to December 1940 and prior to June 1, 1941;

Respondent "advised employees that the union would not bargain for them" on or about May 1942 and June 1942;



Respondent "instructed employees not to remain members of the union" on or about May 1942 and June 1942;

Respondent "advised employees that the union would be of no benefit to them" on or about May 1942 and June 1942.

Dated at Los Angeles, California, this 7th day of August, 1942.

[Seal]

GUY FARMER

Attorney

National Labor Relations  
Board

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BOARD'S EXHIBIT No. 1-K

[Title of Board and Cause.]

AFFIDAVIT AS TO SERVICE

State of California

County of Los Angeles—ss.

I, Ida N. Myers, being duly sworn, depose and say that I am an employee of the National Labor Relations Board, in the 21st Region at Los Angeles, California, on the 7th day of August 1942, I served by postpaid registered mail, bearing Government frank, a copy of Bill of Particulars to the following named persons, addressed to them at the following addresses:

Consolidated Aircraft Corporation  
Lindbergh Field  
San Diego, California

International Association of Machinists  
Aircraft Lodge No. 1125, A.F.L.  
1054 Third Avenue  
San Diego, California

IDA N. MYERS

Subscribed and sworn to before me this 7th day  
of August 1942.

[Seal] LILLIAN D. LYONS

Notary Public in and for the County of Los An-  
geles, State of California.

My Commission Expires Nov. 24, 1943.

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BOARD'S EXHIBIT No. 1-L

[Printer's Note: Board's Exhibit No. 1-L consists of two registered mail receipts and two return cards. Registered Mail receipt No. 397001, dated Los Angeles, Calif., Aug. 7, 1942. Return Card receipt for Registered Mail No. 397001 is addressed to National Labor Relations Board, Los Angeles, Calif., and is signed by Am. Mech. Lodge No. 1125, by J. J. Blake. Date of delivery, 8-8, 1942. Registered Mail receipt No. 397000, dated Los Angeles, Calif., Aug. 7, 1942. Return Card receipt for Registered Mail No. 397000 is addressed to National Labor Relations Board, Los Angeles, Calif., and is signed by Consolidated Aircraft Corp., San Diego, Calif., by M. R. Powdrill. Date of delivery, Aug. 8, 1942.]



## BOARD'S EXHIBIT No. 1-M

[Title of Board and Cause.]

## ORDER AND NOTICE OF CONTINUANCE

This matter having come before Robert Davies, Acting Regional Director for the Twenty-first Region, National Labor Relations Board, upon motion of Roy M. Brown, representative of International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., requesting a continuance of the hearing in this matter;

And said motion being duly considered and a continuance of the hearing herein appearing to be necessary and proper;

It Is Hereby Ordered that the hearing herein, heretofore scheduled to begin on the 18th day of August, 1942, shall be, and it hereby is, continued to September 1, 1942, on which date the hearing shall be held at 10:30 a.m. at the place stated in the Notice of Hearing heretofore issued herein.

Dated: At Los Angeles, California, this 14th day of August, 1942.

[Seal]

ROBERT DAVIES

Acting Regional Director Twenty-first Region National Labor Relations Board U. S. Post Office and Court House Los Angeles, California

BOARD'S EXHIBIT No. 1-N

[Title of Board and Cause.]

AFFIDAVIT AS TO SERVICE

State of California

County of Los Angeles—ss.

I, Ida N. Myers, being duly sworn, depose and say that I am an employee of the National Labor Relations Board, in the 21st Region at Los Angeles, California, on the 14th day of August 1942, I served by postpaid registered mail, bearing Government frank, a copy of Order and Notice of Continuance to the following named persons, addressed to them at the following addresses:

Consolidated Aircraft Corporation  
Lindbergh Field  
San Diego, California

International Association of Machinists  
Aircraft Lodge No. 1125, A.F.L.  
1054 Third Avenue  
San Diego, California

IDA N. MYERS

Subscribed and sworn to before me this 15th day of August 1942.

[Seal]

LILLIAN D. LYONS

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires Nov. 24, 1943.

## BOARD'S EXHIBIT No. 1-O

[Printer's Note: Board's Exhibit No. 1-O consists of two registered mail receipts and two return cards. Registered Mail receipt No. 397864, dated Los Angeles, Calif., Aug. 14, 1942. Return Card receipt for Registered Mail No. 397864 is addressed to National Labor Relations Board, Los Angeles, Calif., and is signed by International Assoc. of Machinists, by N. Christian. Date of delivery, Aug. 15, 1942. Registered Mail receipt No. 397863, dated Los Angeles, Calif., Aug. 14, 1942. Return Card receipt for Registered Mail No. 397863 is addressed to National Labor Relations Board, Los Angeles, Calif., and is signed by Consolidated Aircraft Corp., San Diego, Calif., by M. R. Powdrill. Date of delivery, Aug. 15, 1942.]

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## [Title of Board and Cause.]

Mr. Daniel J. Harrington and  
Mr. Charles M. Ryan,  
For the Board.

Mr. Royal E. T. Riggs and  
Mr. Vern B. Thomas, of San Diego, Calif.,  
For the Respondent.

## INTERMEDIATE REPORT

## Statement of the Case

Upon a second amended charge duly filed on July 17, 1942, by International Association of Ma-

chinists, Aircraft Lodge No. 1125, A.F.L., herein called the Union, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint dated July 23, 1942, against Consolidated Aircraft Corporation, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices, within the meaning of Section 8 (1), (3), and (5), and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notice of hearing thereon, were duly served upon the respondent and the Union.

With respect to the unfair labor practices, the complaint alleged in substance that the respondent: (1) during February 1940, and from May 1941 to the date of the complaint (a) discriminated against union committeemen, (b) hindered and prevented them from performing their duties, (c) induced employees who protested against such actions to resign, (d) threatened to discharge and cancel departmental transfers of employees if grievances were presented on their behalf, (e) offered rewards to employees in order to induce them to abandon their union membership and activities, (f) advised employees that the Union would not bargain for them, (g) instructed employees not to remain members of the Union, and (h) advised them that it would be of no benefit to them; (2) on January 1, 1942, discharged and thereafter refused to rein-

state Arthur J. Fisher because of his union membership and activity; (3) on April 14, 1942, discharged and thereafter refused to reinstate Oliver H. Williamson, except that about May 1, 1942, it reinstated him with prejudice to the rights and privileges to which he was entitled by virtue of the Act, because of his union membership and activity; (4) on or about June 12, 1941, and at all times thereafter to the date of the complaint, refused to bargain collectively with the Union, which was at all such times the exclusive representative of the employees of the respondent within an appropriate unit; and (5) by such acts interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act.

The respondent filed its answer dated July 31, 1942, admitting the allegations of the complaint with respect to its business, denying the commission of any unfair labor practices, and alleging certain affirmative defenses hereinafter more fully discussed. On August 4, 1942, the undersigned entered an order upon the respondent's written motion for a bill of particulars of the complaint, directing counsel for the Board to furnish certain particulars to the respondent. Pursuant to such order, counsel for the Board thereafter furnished to the respondent a written bill of particulars dated August 7, 1942.

Pursuant to notice, a hearing was held at San Diego, California, from September 1 through 8, 1942, before the undersigned, Josef L. Hektoen,



the Trial Examiner duly designated by the Acting Chief Trial Examiner. The Board and the respondent were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded to all parties. At the close of the Board's case, counsel for the respondent moved to dismiss the complaint, and each of its allegations of unfair labor practices, for failure of proof. The motions were denied by the undersigned. At the close of the hearing counsel for the respondent renewed said motions, rulings thereon were reserved by the undersigned, and they are hereby denied; the motion of counsel for the Board to conform the complaint to the proof in respect to formal matters was allowed by the undersigned; and the parties argued orally on the record before him. Counsel for the respondent thereafter filed a brief with the undersigned.

Upon the record thus made, and from his observation of the witnesses, the undersigned makes the following:

## FINDINGS OF FACT

### I. The business of the respondent

The respondent, Consolidated Aircraft Corporation, San Diego, California, is a Delaware corporation maintaining its main office and plant at San Diego, California. It is engaged in the design, manufacture, development, and sale of aircraft, air-

craft parts, and accessories. During the fiscal year ending November 30, 1941, it purchased materials, supplies, and equipment having a value in excess of \$5,000,000, more than 50 percent thereof being purchased and transported from outside the State of California. During the same period it sold finished products having a value of \$95,000,000 substantially all of which were delivered outside the State of California, except that its sales during the fiscal year ending December 31, 1941, made to the United States Army and Navy were made f.o.b. factory, San Diego, California.

The respondent admits that it is engaged in commerce within the meaning of the Act.

## II. The organization involved

International Association of Machinists, Aircraft Lodge No. 1125, is a labor organization affiliated with the American Federation of Labor. It admits to membership employees of the respondent.

## III. The unfair labor practices

### A. The refusal to bargain

#### 1. The appropriate unit

On April 30, 1937, the Board found<sup>1</sup> a unit consisting of all hourly paid employees and salaried inspectors employed at the respondent's San Diego, California plant, excluding supervisory inspectors and confidential clerks, to constitute an appropriate

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(1) Matter of Consolidated Aircraft Corporation and International Association of Machinists, Aircraft Lodge No. 1125, 2 N.L.R.B. 772; see also 7 N.L.R.B. 1061 and 8 N.L.R.B. 205.



unit for the purposes of collective bargaining. The complaint alleged and the parties agreed that it continued to be appropriate at the time of the hearing.

The undersigned finds that all hourly paid employees and salaried inspectors employed at the respondent's San Diego, California plant, excluding supervisory inspectors and confidential clerks, at all times material herein, constituted and now constitute a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, or other conditions of employment, and that said unit insures to employees of the respondent the full benefit of their right to self-organization and to collective bargaining and otherwise effectuates the policies of the Act.

2. Representation by the Union of the majority of the employees within the appropriate unit

On April 30, 1937, the Board certified<sup>2</sup> the Union as the exclusive representative of the employees in the appropriate unit for the purpose of collective bargaining. The parties agreed that the Union continued to be such exclusive representative at the time of the hearing.

The undersigned finds that on and at all times after June 12, 1941, the Union was the duly designated representative of the majority of the employees in the aforesaid appropriate unit and that,

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(2) 2 N.L.R.B. 772; see also 7 N.L.R.B. 1061 and 8 N.L.R.B. 205.

by virtue of Section 9 (a) of the Act, the Union was at all times material herein, and is, the exclusive representative of all the employees in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

3. The refusals to bargain

(a) The contract

On June 12, 1941, the respondent and the Union entered into a written agreement<sup>3</sup> by which the Union was recognized by the respondent as the exclusive representative of the employees in the appropriate unit. Among other things, the contract further established minimum rates of pay and hours of employment, set up a wage review board consisting of three union and three respondent representatives to review wages of employees in April and October of each year, and provided for "interim individual increases when justified, after consulting the foreman and the Union committeemen of the department involved," and set up a grievance procedure. On October 18, 1941, the contract was amended to provide for a 13 cent per hour increase in pay retroactive to August 9, 1941, for all employees who were, on October 11, 1941, receiving more than 65 cents per hour, and on March 5, 1942, it was amended to provide for continuing wage reviews by departmental committees of all

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(3) The agreement, executed at a later date, was retroactive to June 12, 1941. It replaced a prior agreement between the parties, dated April 15, 1940.

employees who had completed six months' continuous employment with the respondent, a "General Wage Committee" consisting of three representatives of the Union and three of the respondent to review deadlocked cases, and arbitration in the event of disagreement by the general committee.<sup>4</sup>

(b) The interim individual wage increases

The contract provided for "interim individual increases" in pay for employees to be approved by the respondent "after consulting the foreman and the union committeeman of the department concerned."<sup>5</sup> On November 11, 1941, without consulting the Union, Works Manager I. M. Laddon informed "All Department Heads" of the respondent that no further interim increases were to be granted until April 1942. The Union protested the respondent's action in suspending the provisions of the contract respecting such increases and on January 22, 1942, after conferences between representatives of the Union and the respondent, Laddon<sup>6</sup> informed the department heads of the latter that the practice of granting interim increases was

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(4) The agreement was also amended in respect to the grievance procedure.

(5) At this time the contract provided for wage reviews in April and October only. As noted above, the wage reviews became continuous by the March 5, 1942, amendment.

(6) He became vice president and general manager of the respondent about January 1, 1942.

to be resumed. The Union declared itself satisfied with this action.

During January, February, and March 1942, however, the respondent without consulting "the Union committeeman of the department concerned," put a number of increases into effect in the purchasing department. The Union protested to Herman R. Wiseman, then the respondent's labor relations director. Wiseman promised to instruct the foreman of the department to consult the union committeeman before "actually granting the increase." Immediately thereafter the respondent, again without consulting the union committeeman, granted some 375 interim increases in the inspection department. The Union again protested. The respondent's management admitted that the increases had been improperly promulgated and on April 11, 1942, C. T. Leigh, vice president and assistant general manager, instructed the department heads of the respondent in detail respecting interim changes in wages. His instructions have since been followed and Roy M. Brown, union Grand Lodge representative, stated at the hearing that the matter had reached "a satisfactory solution to handle all of those particular cases and also the cases in the future, but only after the damage had been done . . ."

(c) The petitions and the notice of  
December 13, 1941

On the night of December 10, 1941,<sup>7</sup> San Diego suffered a blackout necessitating the cessation of work in the respondent's plant. The night shift lost much time as a consequence. On December 11 petitions, the source of which is not disclosed by the record, were circulated among the employees. Those signing them volunteered their time to paint the plant "during daylight hours" so that operations might continue during future blackouts. On December 13 the respondent without consulting the Union circulated petitions among the employees reading: "In view of the present war situation we, the undersigned, offer to work this Sunday at time and a half."<sup>8</sup> On the same day, without consulting the Union, the respondent posted the following notice, signed by Laddon, works manager:

#### NOTICE TO ALL EMPLOYEES

In line with President Roosevelt's desire for a 7 day week, those employees who volunteered to work Sunday without pay may do so. Those men are not to ring their time cards. Other employees who signify in writing that they

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(7) The evidence indicates, and the undersigned finds, that the plant was operating 6 days a week at this time and that it continued to do so throughout the remainder of the period herein under consideration.

(8) The contract provided for double time on "the seventh consecutive day."



desire to work Sunday at time and one half will ring their time cards and be paid accordingly. The above applies to certain jobs in Jigs and Fixtures, Tool Room, Machine Shop, Fuselage, Paint Shop, Sheet Metal, Metal Bench, Welding, and black out painting. No other departments will work.

Upon being informed of these actions by the respondent, the Union, after unsuccessfully protesting them to Laddon and R. H. Fleet, then president of the respondent, and after a special meeting, permitted its members who desired to do so to work on Sunday, December 14, on condition that they "punch their time clocks." It is conceded by the Union that those who worked on December 14 subsequently received double time pay in accordance with the terms of the contract after conferences between representatives of the respondent and the Union.

(d) The crane-operators

In a wage review conducted during April or May 1941 a "basic hourly rate of 75 cents per hour" for crane-operators was established. General increases of 5 cents per hour during May 1941 and of 13 cents to employees who on October 11, 1941, were receiving more than 65 cents per hour, were thereafter granted by the respondent. During February 1942 committees representing the Union and the respondent met respecting the pay of crane-operators. The Union contended that

crane-operators were to be paid 93 cents per hour<sup>9</sup> and that the respondent was not following the agreement in the case of newly-hired crane-operators or those transferred to the "parts plant" of the respondent.<sup>10</sup> The respondent stated that crane-operators were not subject to "any base rate of pay." In the course of the negotiations respecting the matter, the Union, by L. A. Perry, representative, on February 21, 1942, wrote Wiseman asking that the respondent immediately name two arbitrators to the end that the matter might be arbitrated pursuant to the terms of the contract. No reply was received by the Union, and in reply to Perry's telephoned inquiry of February 24 Wiseman informed him "that the company had nothing to arbitrate" and that the respondent considered the matter "irrelevant" and would not go further in respect to it.<sup>11</sup> The grievance of the Union was subsequently settled by action of the wage review board through its consideration of the crane-operators individually.

(e) The third shift

During the first part of March 1942 and after conferences between it and the Union which began

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(9) Seventy-five cents plus the increases of 5 and 13 cents.

(10) It began full operation about June 1941 under George J. Newman, plant manager.

(11) The findings with respect to Wiseman's statements are based upon the uncontradicted and credible testimony of Perry. Wiseman did not testify.



in January, the respondent instituted a third, or midnight to 7 a.m., shift. The contract provided for a differential of 8 cents per hour for night work, and the parties agreed that the third shift additionally receive 8 hours' pay for 6½ hours' work. The contract also provided for a 40-hour week of 5 consecutive 8-hour days, Monday through Friday, with work after 8 hours on any shift to be paid for at time and one-half to 3 hours and thereafter and after 8 hours on Saturday (at time and one-half) at double time, while, as related above, "work on the seventh consecutive day shall be paid for at double time."

On March 9, 1942, just prior to the institution of the third shift, the respondent without notice to the Union issued an order changing working hours of the employees effective March 14, the third shift to begin work at midnight Monday. The effect of the order was to cause the third shift to work from midnight Saturday to 7 a.m. Sunday at time and one-half since that shift would be the sixth, rather than the seventh consecutive day. On March 12 the Union, by James E. Bruce, its coordinator of business agents, wrote Wiseman,<sup>12</sup> stating that under the terms of the contract the Union expected any Sunday work of the third shift to be paid for at double time. On March 14 Wiseman replied that the respondent was "unable to read this interpretation into the Agreement," and

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(12) The letter was dictated by Brown, the Union's Grand Lodge representative.

that the third shift would not be compensated at double time for its Sunday work. Despite the Union's continuing protests against it, the respondent had not deviated from this position at the time of the hearing.

(f) The employees hired outside California

During January and February 1942 the respondent hired a number of employees from outside California at wages and for positions mutually agreed upon. After their arrival at the plant, the respondent without notice to the Union decreased the agreed wages or changed the agreed positions, of some 21 or 22 such employees. They filed grievances with the Union. The latter presented the grievances to Wiseman, stating that the respondent should have consulted the Union as the representative of the affected employees before decreasing their rates of pay or changing their jobs. Wiseman refused to act upon the grievances, stating that the employees had misrepresented their capabilities and that the respondent was paying them what they were worth. After meetings between representatives of the parties, assisted by Harry Malcolm of the Conciliation Service of the United States Department of Labor,<sup>13</sup> the respondent agreed to make retroactive payments to many of the employees involved and furnish the cost of

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(13) Malcolm was in San Diego for many weeks during the early part of 1942, and took part in many of the negotiations between the respondent and the Union which are herein discussed.

transportation to their homes to others. On April 21 the Union wrote the respondent that the employees affected approved of its proposed settlement; the payments were thereafter made and the matter was amicably disposed of.

(g) The job classifications

Early in 1942 the respondent unilaterally adopted a schedule of job classifications covering the employees represented by the Union. This resulted in an unnegotiated ceiling on wages. During February the Union protested that job classifications were properly the subject of collective bargaining. The respondent by Wiseman told the Union that it would not negotiate with the Union respecting classifications "at that time." On March 25 the Union wrote the respondent requesting that bargaining conferences respecting the classifications be held. The respondent did not reply. On May 1 the Union in writing reiterated its request.<sup>14</sup> At the time of the hearing the Union had received no reply from the respondent. The Union's repeated requests for a copy of the respondent's job classification schedule remained similarly uncomplied with.

(h) Conclusions

From the facts found above it is clear that the respondent, beginning with its suspension of the

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(14) This request was addressed to W. Frank Persons, "industrial relations director" of the respondent. Persons succeeded Wiseman on April 9, 1942.

terms of the contract with respect to interim wage increases on November 11, 1941, sought to impose upon the Union a series of independently arrived at and arbitrarily promulgated conditions affecting matters which were properly the subject of collective bargaining with the Union under the provisions of the Act. It succeeded in doing so in respect to the Sunday pay of the third shift and the job classifications.

The suspension of interim wage increases was not only a breach of its contract with the Union, but because it was made without notice to or consultation with the Union, a clear breach by the respondent of its duty to bargain collectively. After the condition was remedied on January 20, 1942, the respondent persisted in its efforts to discredit the Union in the eyes of the employees by granting hundreds of interim increases in wages without consultation with it. In the absence of any evidence by way of mitigation of its actions in so doing, the respondent must again be found to have violated the terms of both the contract and the Act.

The respondent took advantage of the confusion attendant upon the events of December 7, 1941, to obtain the promise of employees to work Sunday, December 14, at less pay than that provided for by the contract. It contended at the hearing that it was motivated in doing so by the petitions of December 11 by which certain employees volunteered to assist in black out painting. It is obvious, however, that the respondent's solicitation of work at a reduced rate of pay for Sunday, went much



farther than mere acceptance of the aid volunteered by the December 11 petitions. It again dealt directly with its employees rather than with their exclusive representative and again failed to perform the duty imposed upon it by the Act.

By refusing to negotiate with the Union respecting the wages of the crane-operators and brushing aside as "irrelevant" its request for arbitration, and by unilaterally imposing changes in pay and position on the employees hired outside California, the respondent was likewise clearly derelict in its duty to bargain with the Union.

The respondent while tacitly admitting that it was at fault in these matters, contended at the hearing that because they were subsequently adjusted upon protest by and in consultation with the Union, it thus fulfilled its duty to bargain collectively under the Act. This contention is without merit. The Act contemplates an amicable and mutually efficacious bargaining relationship between employer and employee. When an employer repeatedly makes unilateral decisions respecting matters as to which he is under a duty to consult with the representative of his employees, he cannot be found to have bargained collectively even though he later makes amends. It is his initial duty to take the representative of his employees into his confidence and in an atmosphere of frankness and full disclosure, make a genuine effort to find a mutually satisfactory solution of the problem at hand. This the respondent failed to do.

In the matter of the Sunday pay of the third shift the respondent, while mutually in agreement with the Union respecting the institution of a third shift, unilaterally adopted a change in working hours which resulted in the third shift's working on Sunday morning at time and one-half. The respondent did not heed the Union's protest and, so far as is disclosed by the record, did not, as it was bound to do, discuss with the Union the interpretation of the contract respecting the point in issue.<sup>15</sup>

The respondent contended at the hearing that as to its undisclosed and arbitrary job classification scheduled it was (1) used by it merely as a "guide," (2) the respondent was prevented from negotiating with the Union respecting it because the matter of stabilized wages for employees of Southern California Aircraft Manufacturers was in the hands of the Federal Government, and (3) that the contract provided for the individual consideration of the wages of each of its scores of thousands of employees and that differences between the Union and the respondent arising from classifications made by the latter could be resolved on that basis.<sup>16</sup> As found above, the classification schedule resulted in a ceiling on wages. Assuming, without so finding, that as contended by the respondent, the Federal Government's wage stabilization program pre-

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(15) See *Rapid Roller Co. v. N.L.R.B.*, 126 F. (2d) 452, (C.C.A. 7).

(16) Manifestly, almost insuperable mechanical difficulties and the limitations of time combine to make such a solution impracticable, and the undersigned so finds.



vented the respondent from contracting with the Union respecting classifications, it was nevertheless incumbent upon it to discuss them with the Union and reveal the basis and substance of its "guide." In so vital a matter the respondent again clearly demonstrated its unwillingness to bargain collectively, as well as its complete misconception as to its duty to treat with the Union on the basis contemplated by the Act.<sup>17</sup>

The undersigned, upon the entire record, finds that the respondent on November 11, 1941, and at all times thereafter, has refused to bargain collectively with the Union as the exclusive representative of its employees in an appropriate unit, and has thereby interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act.

#### B. The discrimination against Fisher

Arthur J. Fisher began work for the respondent in December 1939 as a punch-press operator in the sheet metal department at 75 cents per hour. He joined the Union early in 1940 and was active in organizing his department. He testified without contradiction, and the undersigned finds, that shortly after his initiation into the Union, Foreman

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(17) David G. Fleet, assistant to the manager of the respondent until August 1, 1942, testified that to his knowledge two California aircraft firms, Lockheed and Vega, discussed their job classifications with the unions representing their employees, but was not sure whether "they actually negotiated all the classifications."

Henry J. Liegal told him that if it were not for his union activities, he might become a leadman. In June 1940 Fisher was transferred to a different job in the same department, under Leadman Walter Borg, at a 3-cent hourly increase in pay. In July 1940 the respondent, by R. H. Fleet, president, wrote the Union asking that the employees work 40 hours before receiving overtime pay.<sup>18</sup> At a union meeting held on July 10 Borg, then a union committeeman, moved the adoption of a resolution in conformity with Fleet's request.<sup>19</sup> Fisher opposed the motion and it failed of adoption. On July 26 Liegal discharged Fisher as incompetent. The evidence fails to sustain the respondent's reason for discharging him, but since the complaint does not allege that the respondent discriminated against Fisher by the discharge, the undersigned makes no finding of unfair labor practices based thereon.

Fisher was rehired by the respondent on August 14, 1940, pursuant to action by the Union. He began work in the wing department under Superintendent John B. Waskey and later worked under Leadman Robert B. Mohr. He became union committeeman of the department on January 1, 1941, and on February 1 received a 5-cent hourly increase

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(18) The contract then in effect between the Union and the respondent provided for overtime pay after 8 hours' work on any day.

(19) Borg testified that he could not recall the incident. The undersigned, on the basis of Fisher's credible testimony and on the entire record, finds that the events transpired as related by him.

in pay. About June 1941 the respondent opened the "parts plant," about half a mile from the "home" plant. Fisher was transferred to the parts plant at about that time and worked under Leadman William T. Larson making stabilizer spars at an increase of 5 cents per hour.<sup>20</sup> At the same time he became chairman of the union committeemen of the parts plant which at that time employed about 15,000 persons. He remained in this position until he was discharged on January 1, 1942, for allegedly disobeying the rules of the respondent by leaving his department without permission. By consequence of the retroactive October 1941 general increase of 13 cents per hour, he was then earning \$1.06 per hour.

Late in December 1940 or early in January 1941 Fisher spoke to Stephan J. Powell, foreman of the wing department, in respect to leaving his department on union business in his capacity as committeeman. Fisher testified that Powell instructed him to inform him [Powell] when he left, and that if he were absent, to so inform his clerk or clerks. Powell testified that he told Fisher the latter must obtain his oral "permission" to leave but that when Fisher told him that he had the word of Plant Manager James L. Kelly that he might do so with Powell's "permission," Powell grudgingly said, "Apparently you have the permission," adding that Fisher "still had to let me know when leaving the

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(20) Fisher had also received a 5-cent increase pursuant to the May 1941 general increase.

department.” Powell did not consult Kelly about the matter.<sup>21</sup> It is thus clear, and the undersigned finds, that in the “home” plant “permission” to leave, insofar as Fisher was concerned, was tantamount to merely notifying the foreman of his doing so.

Fisher testified and Powell denied that during January 1941 the latter told Fisher that if he gave up his union activities, Powell would arrange to have him advanced to a better position. Powell was an unimpressive witness who gave contradictory testimony on many issues. The undersigned finds that he made the remarks attributed to him by Fisher.

When the parts plant opened, Powell became assistant factory manager under Newman.<sup>22</sup> On July 23, 1941, the latter issued a notice to the employees stating that with irrelevant exceptions, “no one is permitted to leave their department without the permission of the Foreman in charge,” and that unauthorized departure would be cause for dismissal. On August 26 Newman issued a notice that “Bright red buttons are being issued to the foremen, who will see each man leaving the department is supplied with one, who will return same when mission is completed.”

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(21) Kelly testified that he gave no specific instructions to Fisher respecting leaving his department and that it was “understood” by the union committeemen that “permission” of their foreman or his assistants was required in order to leave.

(22) Kelly had no jurisdiction over it during the period under consideration.



Fisher testified that he followed the agreement established between Powell and himself respecting his activities for the Union, that no complaint regarding his leaving his job in connection therewith<sup>23</sup> was made until December 13, 1941, and that both Newman and Powell told him that the notices did not apply to him as chairman of the union committeemen. Newman could not recall "any direct conversation regarding [Fisher] leaving his department" and denied telling him that the notices did not apply to him. Powell first testified that he told Fisher that the notice of August 26 specifically applied to him, but thereafter admitted that he could not recall having ever specifically spoken to Fisher about the matter. The evidence shows that at least two union committeemen in the parts plant, Dennis B. Harkins and Hervey H. Thomas, left their departments on union business, the former "sometimes twice a day," under arrangements with their foremen whose "permission" to do so they obtained by procuring rover's badges from their clerks. From the record as a whole, including Newman's vague and Powell's contradictory and unconvincing testimony regarding the point, the undersigned is convinced and finds that the notices did not specifically apply to Fisher and that Newman and Powell tacitly indicated to him that notifying his foreman or his clerks constituted "permission" to leave his department on union business.

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(23) Fisher obtained "rover's" buttons by notice to Foreman Lawrence E. Mineah, or of his clerks, on a number of occasions.

Shortly before the 3:30 p.m. quitting time on December 13, 1941, Fisher got notice of the respondent's petition regarding Sunday work through employee T. L. McMahon. He immediately telephoned Newman, told the latter he would call at his office on his way from work that afternoon, and left the building<sup>24</sup> in order to speak to Theodore Stark, McMahon's foreman, before Stark left for the day. He told Stark that circulation of the petition by the respondent was violative of both the Act and the contract and continued on to Newman's office.<sup>25</sup> Stark immediately informed Newman of Fisher's visit and when the latter arrived, Newman, according to Fisher, "wheeled around in his chair" and asked, "What the hell are you? A slant eyed Jap lover, a Hitlerite or a God damned Communist?" After Fisher remonstrated with him respecting the petition, Newman added, "Fisher, you know you are treading on thin ice \* \* \* The first of the year you are all done." Newman testified that he inquired of Foreman Mineah as to Fisher's whereabouts and was informed by him that he did not know where Fisher was, that he asked Fisher why he was out of his department and that Fisher admitted he had not obtained "permission" to leave.

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(24) Fisher testified, and the undersigned finds, that he endeavored to get permission to leave but that he could not find his foreman nor any clerk of the latter. It is to be borne in mind that these events occupied at most 5 or 10 minutes before quitting time.

(25) The quitting whistle blew while Fisher was in Stark's office.



Newman denied having spoken to Fisher as quoted, but stated that he told him that he believed the petition a patriotic move by the employees to "volunteer their time to come in and blackout the plant,"<sup>26</sup> and that Fisher should not interfere. He admitted telling Fisher that he was on thin ice, and warned him to stay on the job in the future. Newman also testified that Fisher came to his office frequently and presented "Mostly petty grievances, a lot of them, more or less imaginary, that became very monotonous, after awhile, to keep hearing." It is clear from the record as a whole that Newman was extremely irked by Fisher's activities as shop chairman. Thus, on cross-examination by counsel for the Board, he testified that when Fisher appeared at his office on December 13 Fisher "had no reason to present any kind of a grievance at that time \* \* \* He was on his way home." In all of the circumstances presented by the record, the undersigned concludes and finds that Newman made the statements to Fisher substantially as attributed to him by the latter.

During the fall of 1941 Foreman Mineah saw Fisher leave the office of L. D. Larimer, of the respondent's personnel department, and told him to stay on the job in the future. Fisher protested

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(26) Newman here apparently confused the petition of December 11 with that of December 13, 1941. The former volunteered help; the latter, circulated by the respondent, accepted the help and, as related above, solicited work on Sunday at time and one-half. It was the object of Fisher's activities on December 13.

that he had notified Mineah's clerk of his leaving on union business and that he was following his usual practice in so doing. Mineah used strong language, told Fisher he was no longer under Kelly, and that if he left again, he would be discharged. Fisher filed a written grievance in respect to the matter and at a grievance meeting of representatives of the Union and the respondent, Powell assured the union members, including Fisher, that he would talk to Mineah and "put him on the right track." Although witnesses for the respondent testified that Mineah was spoken to merely about swearing at Fisher, the record indicates and the undersigned finds that Fisher was left under the justifiable impression that Mineah was also told not to interfere with Fisher's legitimate activities as union shop chairman.

In November and December 1941 the matter of getting raincoats and boots for certain negro janitors who worked in the open was discussed by representatives of the Union and the respondent. The latter's management informed the union members that coats and boots would be furnished. Newman thereafter decided to the contrary, however, and Fisher, who had attended the meetings, was not informed of his decision. On the morning of January 1, 1942, a stormy day in San Diego, Fisher, according to his testimony, told Supervisor Elmer Gahlbeck<sup>27</sup> that he might have to leave his job that morning in regard to the janitors, one of whom had

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(27) As supervisor, Gahlbeck ranked immediately under the assistant foremen.

complained to him about their working in the rain without coats and boots. Gahlbeck, according to Fisher, answered, "It is O.K. with me." Gahlbeck testified that he could not definitely recall Fisher's having spoken to him about the janitors. He also testified that he had no authority to permit Fisher to leave the department. Under these circumstances, Gahlbeck's statement is contextually logical. In view of Gahlbeck's dubious memory of the events of January 1 exhibited on the witness stand, the undersigned is persuaded that Fisher's version of the incident represents the facts; he so finds.

About 9 a.m., A. J. Slaughter, union committeeman of the janitors, called for Fisher and suggested that they speak to Larimer about the situation. Fisher obtained a "rover's" button from Donald Pickett, one of Mineah's clerks, telling him that Gahlbeck had given him permission to leave. As they were moving through the plant, they met Newman, Powell, and Henry Golum, Newman's assistant. Newman demanded to see Fisher's button, the latter produced it from his pocket,<sup>28</sup> and explained that he was on union business in regard to the raincoat situation. Newman thereupon sent Fisher back to his job, stating that the raincoat matter "had already been settled," and upon obtaining denials from Mineah and Gahlbeck that they had authorized Fisher's departure, told Min-

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(28) Fisher testified that Newman snatched the button off his shirt. The weight of the testimony is to the contrary and the undersigned finds that Newman did not do so.

eah to discharge Fisher for disobeying company rules. This was done and he left the plant at 9:30 a. m.

Fisher's "termination of employment" record shows that he was "O. K. for rehire in your department" in the opinion of Mineah.

After Fisher's discharge, representatives of the Union unsuccessfully sought to accomplish his reinstatement in conferences with Larimer, Wiseman, and Newman, the latter heatedly stating that he would not reemploy Fisher under any conditions and completely rejecting the Union's plea that Fisher should not have been discharged for performing the duties of his union office. On March 19, 1942, Perry, union representative, personally delivered a letter to Wiseman asking whether the Union was correct in believing that the respondent would not further consider Fisher's case. Wiseman refused to accept it, stating that he considered the letter "a legal trick."<sup>29</sup>

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(29) The Board contends that the summary rejections of the Union's efforts on behalf of Fisher's reinstatement constituted a refusal to bargain. Under all of the circumstances revealed by the record, the undersigned concludes and finds that the respondent did not thereby refuse to bargain. Fisher's discharge was an accomplished fact and the respondent was not required to recede from its position even though the discharge might subsequently be found to have been discriminatory. The same is true of its refusal to reinstate employee A. B. Mergen, discharged during December 1941, and in regard to whom the record fails to sustain the Board's contention that the respondent refused to bargain collectively with the Union.



Fisher's zealous performance of his union duties early aroused the respondent's resentment. Thus, when Fisher first became a committeeman in the home plant, Leadman Mohr took occasion to advise Fisher not to "go around and agitate these [grievances]" and testified that he believed Fisher's endeavors to secure raises for the employees in his department constituted a breach of discipline and told Fisher, " . . . come to me, or somebody else, before you start upsetting these men, because these men appear to be satisfied." Supervisor Waskey also testified that he warned Fisher to "let the employee with a grievance bring it to him, rather than go out and hunt up the grievances." Fisher continued his activities on behalf of the Union, however, and became shop chairman of the parts plant. There he followed his former practice in leaving his department on union errands and incurred Mineah's reprimand. Mineah was thereafter, so far as Fisher knew, "put on the right track." Newman, true to his threat of 2 weeks previously, discharged Fisher on January 1, 1942, allegedly because he had not secured the written permission of Mineah in obtaining a rover's button from Pickett. Mineah testified that he "reprimanded" Pickett for issuing the badge to Fisher, but the record is silent as to any discipline being imposed upon him by the respondent for his participation in and responsibility for the incident which, in vivid contrast, resulted in Fisher's summary discharge.

The circumstances surrounding Fisher's dismis-

sal became more than suspicious when placed beside the fact that the respondent, through Powell and Liegal had clearly demonstrated its hostility to the Union and through Newman, its animosity to Fisher on account of his persistence in performing the duties of his office in it. Upon the whole record, the undersigned is convinced and finds that the respondent did not in fact discharge Fisher for disobeying orders, but merely used such alleged disobedience in justification thereof, its actual motive for doing so being his union membership and activity and its determination to rid itself of him on account of his obstinate refusal to abdicate the performance of the duties of his office in the parts plant.

In all the circumstances disclosed by the record, the undersigned finds that the respondent discriminated in regard to the hire and tenure of Fisher's employment, thereby discouraging membership in the Union.

#### C. The discrimination against Williamson

Oliver H. Williamson worked for the respondent as a jig builder from June 20, 1940, to April 18, 1941, when he resigned. He returned to work during September 1941 and worked on the night shift in the parts plant until his discharge on April 14, 1942. He was rehired on the day shift on May 1, 1942, without loss of seniority. He began work at 65 cents an hour and was earning \$1.15 per hour at the time of the hearing.<sup>30</sup>

Williamson joined the Union in September 1940,

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(30) At that time he was on temporary leave of absence on union business.



became night shift shop committeeman of his department on March 1, 1941, and continued as such to the date of his discharge. About 7:30 p.m. on April 14, Walter Brown, an employee in Williamson's department, informed Williamson that Foreman Milton C. Hangen had transferred him to Fred Ewart, leadman, that Brown did not want to work under Ewart, and that Hangen had told him earlier on the same day that he could check out at 11 p.m. Hangen thereafter changed his mind and, without consulting Brown, through James H. Eastin, his assistant, sent a plant policeman to escort Brown out of the plant at about 8:30 p.m. Williamson objected to Brown's being escorted by a policeman since that fact indicated that Brown had been discharged. He unsuccessfully sought to find Hangen, was told by Eastin to stop his activities and go back to work, and talked in a loud voice concerning the way the plant was being operated by the respondent to the 8 to 12 employees who were gathered at the scene. Liegal, then superintendent of the night shift in the parts plant, appeared after some minutes and, according to Williamson, told the latter, "You are one of these damned Union agitators \* \* \* You better be careful or you will know what I am going to do to you." Liegal denied making these remarks, but in view of the subsequent occurrences the undersigned credits Williamson's testimony and finds that the events took place as related by him. Williamson continued to object to the policeman's taking Brown out of the plant. Liegal and he started to the former's office in order

to discuss the question of certain recent discharges of employees by the respondent.<sup>31</sup> On the way they met Hangen to whom Williamson repeated his strictures against the respondent. Liegal tacitly instructed Hangen to discharge Williamson. Hangen thereupon did so, Williamson's service record reading, "Discharged—Agitator."

On the following day, April 15, a committee of the Union met with members of the respondent's management in respect to the discharge of both Williamson and Brown. The evidence indicates that at the meeting it was determined that Brown had in fact told Hangen that he would resign. Brown's service record was changed from "Discharged—Declined to take orders" to "Quit." After further conferences between the parties, Williamson was reemployed on the day shift on May 1, 1942, without loss of seniority,<sup>32</sup> and his employ-

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(31) Williamson told Liegal the subject he wished to discuss was not a union matter and took off his badge. The finding is based upon the testimony of Eastin and Williamson.

(32) The complaint alleged that Williamson was reemployed by the respondent "with prejudice \* \* \* to the rights and privileges to which said employee was and is entitled \* \* \*" Williamson's reemployment on the day shift necessarily terminated his office as union committeeman on the night shift. The parties, however, must be considered to have had this consequence in view when the matter was settled. Since it formed part of the settlement agreement, the undersigned does not, under the circumstances presented, make a finding that Williamson was denied any rights and privileges to which he was entitled by the terms of the Act.

ment record was changed to read "Disciplinary Layoff—2 wks. without pay." On April 30, 1942, Roy M. Brown, union representative, wrote the Regional Director of the Board stating that the matter of the charge previously filed by the Union against the respondent respecting Williamson's discharge had "been settled to the satisfaction" of the Union and that it wished it withdrawn.

The evidence shows that Williamson was correct in insisting that the policeman should not take Brown out of the plant, that the latter had voluntarily resigned, and that he was therefore not properly subject to such escort and surveillance. In the confusion surrounding the scene, Williamson became agitated and the contagion spread to Liegal and Hangen. The fact remains, however, that Williamson was discharged for attending to his duties as a union committeeman. Under such circumstances the respondent's action in dismissing him constituted discrimination by it in regard to his hire and tenure of employment. The undersigned so finds; he further finds that the respondent thereby discouraged membership in the Union.

#### D. Interference, restraint, and coercion

Joseph J. Blake, head timekeeper of the wing hall department under William M. Shanahan, the respondent's treasurer, and H. A. Vernon, his assistant, was chairman of the union committeemen in the home plant during the last half of 1941, with approximately 50 committeemen reporting to him. Representatives of the Union, including Blake, and

of the respondent negotiated certain contract changes in Washington during the summer of 1941. Blake returned to his job during August. Shortly thereafter he was transferred to Vernon's office on "miscellaneous" jobs and prevented from receiving telephone calls, Vernon considering that the calls received by Blake in the course of his union duties interfered with his work of checking the work of about 100 to 125 employees several times a day. Blake was thereafter assigned to 3 days work in a vault sorting cards and about October 1941, took a month setting up records for the Union on leave of absence from the respondent. Upon his return, he was transferred to the parts plant in what is now the audit department, sorting cards under the supervision of an employee earning less than himself, and was again denied the use of the telephone. He was elected financial secretary of the Union and on January 1, 1942, ceased his employment with the respondent.

Blake testified that his union duties did not interfere with his work as timekeeper. However, the testimony of Shanahan, Vernon, and Felton, union representative, indicates that in the job occupied by Blake as timekeeper, he could not successfully attend to both his duties for the Union and for the respondent and that he was therefore by common consent put on temporary work in Vernon's office. After his leave of absence on Union work in October, he was, according to the undenied testimony of



Shanahan, which the undersigned credits,<sup>33</sup> placed in the auditing department at his own request, pending the outcome of a run-off election for the union position which he later achieved. Under these circumstances, and in all the circumstances revealed by the record, his work changes and the respondent's interdiction against Blake's use of the telephone appear to the undersigned to have been a part of the arrangement arrived at. He therefore finds that the Board's contention that the respondent's activities in respect to Blake constituted violation of Section 8 (1) of the Act, must fail.

On April 28 or 29, 1942, Timekeeper Albert L. Condon, temporary union committeeman, interviewed Shanahan with respect to the request of employee L. D. Hardman for an increase in pay based upon his length of service in Shanahan's department. Hardman was to be transferred to the materials department and desired that action be taken on his pay raise before the transfer took effect since he would lose his seniority by it. Shanahan had previously told Hardman that he would have to wait for his semi-annual wage review until he had completed his required length of service and that the department in which it was conducted would depend on where Hardman was employed at that time. Shanahan informed Condon that because the latter was himself leaving the next day, the matter should be taken up by his successor.

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(33) Blake returned to the witness stand on rebuttal by the Board after Shanahan had testified.

Condon testified without contradiction and the undersigned finds that Shanahan then warned him that if a grievance were filed in respect to Hardman, the latter's transfer would be cancelled with the result that he would be "terminated"<sup>34</sup> and that anyone who tried to do anything about the Hardman case would get into trouble.

The undersigned finds that the evidence respecting the April 1942 transfer of Edward Barnes from Vernon's supervision to another department does not establish interference by the respondent with his activities as union committeeman. Barnes had himself previously requested a transfer and when Vernon's department was reorganized, he obtained it. There is no showing that it was motivated by the fact that he held a union office.

Everett M. Shannon, committeeman for the timekeepers, incurred the displeasure of Shanahan by demanding what the latter considered to be too large increases in pay for union timekeepers during the 1942 spring and summer wage reviews, and thereby causing the majority of such cases on the April to August, inclusive, lists to be taken to the general wage committee. Shannon testified that Shanahan at various times during this period demanded that he approve recommendations for in-

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(34) Shanahan explained on the stand that Hardman was an unsatisfactory employee in his department, and that if he could not effectuate a transfer from it to another, he would be discharged. The record indicates that no grievance was filed and that Hardman was subsequently transferred.



creases without consulting the employees involved, urged him to drop his union job, and warned him to stay out of certain departments where his union work normally took him. Shanahan admitted that he told Shannon of his displeasure with the latter's activities in making an alleged "Sham" of the wage review procedure and telling him that he could not deal with him. He denied making any anti-union statements. In all of the circumstances revealed by the record, particularly the extremely rapid growth of the respondent's operations and its attendant strain upon its managerial personnel and specifically Shanahan, and from his observation of the witnesses, the undersigned is persuaded and finds that Shanahan made the statements attributed to him by Shannon. Despite the circumstances under which they were made, their utterance cannot be excused.

On February 9, 1942, employee H. M. Prior wrote the Union that he had been promoted to assistant foreman and requested a withdrawal card. Don D. Wilkerson, union representative, told him that under the constitution such card could be issued only upon his becoming a general foreman, but that he could drop his membership if he so desired.<sup>35</sup> On February 20, Wiseman wrote Wilkerson that he knew of Prior's letter and stated that since Prior was not within the classification cov-

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(35) This finding is based upon the credible testimony of Wilkerson.

ered by the contract, "it will be appreciated if you will immediately act upon his request."<sup>36</sup>

On May 20, 1942, C. W. Perelle, vice president in charge of production, sent a confidential memorandum to William Renison, supervisor, attaching a list of salaried employees under the latter's supervision who were "still paying dues to the Union. Obviously this is contrary to our policy." Perelle told Renison to discuss the matter with the employees affected and stated: "If the individual does not desire to discontinue his affiliation with the Union, he certainly cannot be permitted to retain his present position, but must be transferred back to a job commensurate with his ability and attitude concerning membership in the Union."<sup>37</sup>

On June 2, the Union by K. G. Phillips, representative filed a grievance protesting the respondent's taking certain "hourly paid supervisors who came under the jurisdiction of the Union and placing them on the administrative payroll (a salaried rate of pay)"<sup>38</sup> as contrary to the contract and the action of Foreman Edward Stuart of the purchasing department in requesting such employees to write letters to the Union asking that they be removed from its rolls, and requesting the return of

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(36) The Union took no action. Prior permitted his dues to become delinquent and was "automatically dropped from the union."

(37) Emphasis supplied.

(38) Phillips testified, and the undersigned finds, that such transfers were made without change in the job status of those involved.

such transferred employees to hourly rates. About a week later, Phillips, met with Thomas E. Vance supervisor in the respondent's labor relations division. Vance told Phillips that the action of Stuart had been taken pursuant to Perelle's memorandum which represented the respondent's policy. The record is silent as to the disposition, if any, of the grievance.

Shanahan's remarks to Condon in connection with the latter's presentation of the Hardman case and to Shannon regarding his activities as union committeeman were clearly coercive of the employee's rights under the Act. The activities of Wiseman and Perelle, highlighted by the latter's instruction that salaried employees who did not withdraw from the Union be transferred back to positions in keeping with their "attitude" toward membership therein, were likewise clear invasions of the employees' rights to membership and activity in a labor organization of their choice.

The undersigned finds that by the acts and statements of Liegal, Powell, and Newman,<sup>39</sup> and Shanahan, Wiseman, and Perelle, the respondent has interfered with, coerced, and restrained its employees in the exercise of rights guaranteed in Section 7 of the Act.

#### IV. The effect of the unfair labor practices upon commerce

The activities of the respondent set forth in Sec-

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(39) In connection with Arthur J. Fisher, *supra*.

tion III above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. The remedy

Having found that the respondent has engaged in and is engaging in certain unfair labor practices, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It has been found that the respondent has refused to bargain collectively with the Union. It will therefore be recommended that the respondent, upon request, bargain collectively with the Union as the exclusive representative of its employees within the appropriate unit.

It has been found that the respondent has discriminated in regard to the hire and tenure of employment of Arthur J. Fisher and Oliver H. Williamson. It will therefore be recommended that the respondent offer Fisher immediate and full reinstatement to his former or substantially equivalent position and make him whole for any loss of pay he may have suffered as a consequence of the respondent's discrimination against him by payment to him of a sum of money equal to that which he would have earned as wages from the date of the respondent's discrimination against him to the date



of the offer of reinstatement, less his net earnings<sup>40</sup> during said period.<sup>41</sup>

Upon the basis of the above findings of fact and upon the entire record in the case, the undersigned makes the following:

### CONCLUSIONS OF LAW

1. International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., is a labor organiza-

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(40) By "net earnings" is meant earnings less expenses, such as for transportation, room and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N.L.R.B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N.L.R.B.* 311 U. S. 7.

(41) The Williamson discharge was "settled" by his being rehired by the respondent without back pay for the two weeks of his "disciplinary lay-off" as the result of conferences between the Union and the respondent. Since the question of back pay was undoubtedly reviewed by the parties, it must be considered to have been waived by the Union as a part of the settlement. The undersigned will not, therefore make the usual recommendation that Williamson be made whole for any loss of pay he may have suffered by reason of the respondent's discrimination against him since it would not, under the circumstances effectuate the policies of the Act.



tion, within the meaning of Section 2 (5) of the Act.

2. All hourly paid employees and salaried inspectors employed at the respondent's San Diego, California, plant, excluding supervisory inspectors and confidential clerks, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

3. International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., was on June 12, 1941, and at all times material herein is the exclusive representative of all the employees of the respondent in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the Act.

4. By refusing on November 11, 1941, and at all times thereafter to bargain collectively with International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., as the exclusive representative of its employees, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (5) of the Act.

5. By discriminating in regard to the hire and tenure of employment of Arthur J. Fisher and Oliver H. Williamson, thereby discouraging membership in International Brotherhood of Machinists, Aircraft Lodge No. 1125, A.F.L., the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8(3) of the Act.

6. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has en-

gaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

7. The aforesaid unfair labor practices, are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

### RECOMMENDATIONS

Upon the basis of the foregoing findings of fact and conclusions of law, the undersigned recommends that the respondent, Consolidated Aircraft Corporation, San Diego, California, its officers, agents, successors, and assigns, shall:

1. Cease and desist from

(a) Refusing to bargain collectively with International Association of Machinist, Aircraft Lodge No. 1125, A.F.L., as the exclusive representative of all hourly paid employees and salaried inspectors employed at the respondent's San Diego, California, plant, excluding supervisory inspectors and confidential clerks;

(b) Discriminating in regard to the hire and tenure of employment of its employees because of their membership in or activity on behalf of International Association of Machinists, Aircraft Lodge No. 1125, A.F.L.;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes

of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the undersigned finds will effectuate the policies of the Act;

(a) Upon request, bargain collectively with International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., as the exclusive representative of all hourly paid employees and salaried inspectors employed at the respondent's San Diego, California, plant, excluding supervisory inspectors and confidential clerks;

(b) Offer to Arthur J. Fisher, immediate and full reinstatement to his former or substantially equivalent position;

(c) Make whole said Arthur J. Fisher for any loss of pay he may have suffered as a consequence of the respondent's discrimination against him, in the manner set forth in the Section entitled "The remedy" above, less his net earnings<sup>42</sup> during said period;

(d) Post immediately and maintain for a period of at least sixty (60) consecutive days from the date of posting, in conspicuous places throughout its San Diego, California, plant, notices to its employees stating (1) that the respondent will not engage in the conduct from which it is recommended that it cease and desist in paragraphs 1 (a), (b), and (c) hereof; (2) that the respondent will take the affirmative action set forth in paragraphs 2(a),

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(42) See footnote 40, *supra*.

(b), and (c) hereof; and (3) that the respondent's employees are free to become or remain members of International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., and that the respondent will not discriminate against any employee because of membership in or activity on behalf of that organization;

(e) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of the receipt of the Intermediate Report what steps the respondent has taken to comply therewith.

It is further recommended that unless on or before ten (10) days from the date of the receipt of this Intermediate Report the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board, Series 2—as amended—effective October 14, 1942, any party may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Shoreham Building, Washington, D. C., an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions

or objections) as it relies upon, together with the original and four copies of a brief in support thereof. As further provided in said Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days after the date of the order transferring the case to the Board.

JOSEF L. HOKTOEN,

Trial Examiner.

Dated: October 16, 1942.

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[Title of Board and Cause.]

ORDER TRANSFERRING CASE TO THE  
NATIONAL LABOR RELATIONS BOARD

A hearing in the above-entitled case having been held before a duly designated Trial Examiner and the Intermediate Report of the said Trial Examiner, a copy of which is annexed hereto, having been filed with the Board in Washington,

It Is Hereby Ordered, pursuant to Article II, Section 32, of National Labor Relations Board Rules and Regulations—Series 2, as amended, that Case No. XXI-C-1988 be, and it hereby is, transferred to and continued before the Board as Case No. C-2378.



Dated, Washington, D. C., October 20, 1942.

By direction of the Board:

[Seal]

BEATRICE M. STERN

Executive Secretary

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Consolidated Aircraft Corporation

San Diego, California

W-1292

619 Union Trust Bldg.

Washington, D. C.

October 26, 1942

National Labor Relations Board

4th Floor

Shoreham Bldg.

Washington, D. C.

Attention: Mrs. Beatrice M. Stern

Executive Secretary

Gentlemen:

With reference to Case C-2378 transferred by Trial Examiner to National Labor Relations Board on October 20, the Findings and Conclusions were not received here until October 22 and under the 15 days shortened time provided for in Section 33 Respondents Exceptions and Brief must be filed on or before November 4 in Washington. Respondent intends to file Exceptions to the Report and requests opportunity for oral argument thereon before the Board and respectfully requests further that an extension of time be granted to formulate Exceptions and Brief for 15 days from November 4.

This company is engaged entirely in production of airplanes and parts in the prosecution of the war. Its counsel find difficulty in keeping up with the daily routine of the company's legal affairs. On account of time and distance, and in order not to interfere with or delay the company's legal affairs in connection with war production, this extension is requested.

Yours truly,

CONSOLIDATED AIRCRAFT  
CORPORATION

H. E. WEIHMILLER

Vice Pres. & East. Repr.

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October 28, 1942

Mr. H. E. Weihmiller, Vice President  
Eastern Representative  
Consolidated Aircraft Corporation  
619 Union Trust Building  
Washington, D. C.

Re: Consolidated Aircraft Corp.  
Case No. C-2378

Dear Sir:

This will acknowledge your letter of October 26, requesting an extension of time for filing Exceptions and Brief on behalf of the respondent.

Please be advised that you are hereby granted until November 12, 1942 for submitting your Exceptions and Brief. This extension is granted all parties to the proceeding.

Your request for oral argument will be granted and all parties will be advised when the proceeding is scheduled for argument.

Very truly yours,

s/ BEATRICE M. STERN

Beatrice M. Stern

Executive Secretary

National Labor Relations

Board 21st Region

Paul Hutchings, Esq.

Machinists Bldg.

Washington, D. C.

JL/ep

cc:

Mr. Roy M. Brown Repr.

Int'l Association of Machinists

Lodge #1125 AFL

1054 3rd St.

San Diego, Calif.

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[Title of Board and Cause.]

### RESPONDENT'S STATEMENT OF EXCEPTIONS

The respondent, Consolidated Aircraft Corporation, hereby excepts to the intermediate report of Josef L. Hektoen, the trial examiner, dated October 16, 1942, in the following particulars:

#### Exceptions to Findings of Fact

1. To finding III A 3 (b) upon the ground that the finding is contrary to the evidence, against the

weight of evidence, is unsupported by substantial evidence, and that the facts found therein are immaterial and do not constitute a refusal on the part of the respondent to bargain collectively.

2. To finding III A 3 (c) upon the ground that the finding is contrary to the evidence, against the weight of evidence, is unsupported by substantial evidence, and that the facts found therein are immaterial and do not constitute a refusal on the part of the respondent to bargain collectively.

3. To finding III A 3 (d) upon the ground that the finding is contrary to the evidence, against the weight of evidence, is unsupported by substantial evidence, and that the facts found therein are immaterial and do not constitute a refusal on the part of the respondent to bargain collectively.

4. To finding III A 3 (e) upon the ground that the finding is contrary to the evidence, against the weight of evidence, is unsupported by substantial evidence, and that the facts found therein do not constitute a refusal on the part of the respondent to bargain collectively, but set forth only a difference of opinion as to the interpretation of the agreement between the respondent and the Union, dated June 12, 1941, as amended, which, by the terms of said agreement, shall be settled by arbitration.

5. To finding III A 3 (f) upon the ground that the finding is contrary to the evidence, against the weight of evidence, is unsupported by substantial evidence, and that the facts found therein are immaterial and do not constitute a refusal on the part of the respondent to bargain collectively.

6. To finding III A 3 (g) upon the ground that the finding is contrary to the evidence, against the weight of evidence, is unsupported by substantial evidence, and that the facts found therein do not constitute a refusal on the part of the respondent to bargain collectively but set forth only a difference of opinion as to the interpretation of said agreement between respondent and the Union, which, by the terms of said agreement, shall be settled by arbitration; that the facts found are immaterial; and that the dispute between the respondent and the Union has been certified by the Secretary of Labor to the National War Labor Board, pursuant to Executive Order No. 9017 issued by the President January 12, 1942.

7. To each and every of the conclusions set forth in the section headed III A 3 (h) and to the conclusions drawn from findings (b), (c), (d), (e), (f) and (g) above referred to, in that the findings (b), (c), (d), and (f) show that matters in dispute were settled satisfactorily by collective bargaining; that finding (e) sets forth only a dispute as to the interpretation of said agreement between respondent and the Union; that finding (g) sets forth only a difference of opinion as to the interpretation of said agreement between respondent and the Union; and that this Board is without jurisdiction with reference to the matters set forth in findings III A 3 (e) and III A 3 (g) until and unless arbitration has been requested by the Union and refused; and generally to each and all of the conclusions set forth on the ground that the same are



contrary to the weight of evidence, not supported by substantial evidence, and are contrary to law.

8. To finding III B, entitled "The discrimination against Fisher", upon the ground that the same is contrary to the evidence, contrary to the weight of evidence, not supported by substantial evidence, and that the finding fails to find the complete facts concerning the discharge of Fisher according to undisputed evidence.

9. To finding III C, entitled "The discrimination against Williamson", upon the ground that the same is contrary to the evidence, contrary to the weight of evidence, not supported by substantial evidence and fails to find the complete facts concerning the discharge of Williamson according to undisputed evidence.

10. To each and every paragraph in the finding III D, entitled "Interference, restraint, and coercion", upon the ground that the same are contrary to the evidence, contrary to the weight of evidence, not supported by substantial evidence and are immaterial and unconnected with any act of discrimination or with any act of interference, restraint or coercion, or if regarded as attempted, such interference, restraint, and coercion are shown by undisputed evidence to have been uncompleted and unsuccessful; that the paragraph with reference to timekeeper Albert L. Condon shows no interference, restraint, or coercion with reference to the said Condon as union committeeman; that the finding with reference to said Condon fails to find the complete facts concerning the transfer of Hardman

according to undisputed evidence; that the finding with reference to Shannon fails to set forth any fact of interference or coercion with reference to said Shannon; that the finding fails to find the complete facts concerning the activities of Shannon, which, according to the undisputed evidence, consisted of activities discriminating against non-union men, contrary to the provisions of said agreement between respondent and the Union; that the findings with reference to Prior and the bulletin of Perelle fail to show any act of interference, restraint, or coercion, or if regarded as attempted, the evidence fails to show that said acts resulted in any interference, restraint and coercion of any employees.

11. To finding IV, entitled "The Effect of the Unfair Labor Practices upon Commerce", upon the ground that the same is contrary to the evidence, **contrary to the weight of the evidence**, not supported by substantial evidence, and is contrary to law.

#### Exceptions to Rulings

1. At pages 447 to 449, inclusive, of the record, to the overruling of the motions of respondent to dismiss the charges and the complaint; at page 722 of the record, to the admission of the Board's Exhibits 8(a) to 8(e), inclusive, upon the ground that the same were not properly proved, and had no more probative force at the time of their admission than when they had been previously rejected by the trial examiner (record p. 97) upon the ground that they constituted no proof that the union committeeman had not been consulted prior to any wage increase

therein referred to, and that they are incompetent and irrelevant as a basis for part of finding III A 3 (b); and to the denial of the respondent's motions to dismiss the complaint and each of its allegations of unfair labor practices, renewed by respondent at the close of the hearing, which denial is contained in the Intermediate Report under the caption "Statement of the Case".

### Exceptions to Conclusions of Law and Recommendations

1. To the conclusions of law numbered 4, 5, 6 and 7 under the caption "Conclusions of Law", and to the recommendations numbered 1(a), (b), and (c), and 2(a), (b), (c), (d), and (e) under the caption "Recommendations", upon the ground that the same are not supported by the evidence and are contrary to the evidence and to law; and respondent reiterates and realleges and incorporates by reference herein all exceptions heretofore made to findings of fact upon which said conclusions and recommendations are based; and that said conclusions and recommendations are improper upon the basis of the facts found.

### General Exception

For a general exception respondent alleges that the National Labor Relations Board has no jurisdiction over disputes between respondent and the Union with reference to job classifications, wage rates, and salaries by reason of: Executive Order No. 9017, issued by the President on January 12, 1942; the Act of October 2, 1942, Public Law No. 729, 77th Congress, 2d Session, entitled "An Act

to Amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes''; Executive Order No. 9250, issued by the President on October 3, 1942; the following General Orders of the National War Labor Board: Number 1, issued October 7, 1942, Number 2, issued October 7, 1942, Number 3, issued October 7, 1942, and Number 5, issued October 14, 1942; and the certification of the Secretary of Labor under the authority of Executive Order No. 9017, issued by the President on January 12, 1942, to the National War Labor Board of the dispute involving the Consolidated Aircraft Corporation, San Diego, California, and International Association of Machinists, Lodge No. 1125.

Wherefore, respondent respectfully prays that the complaint against it be dismissed and for such other and further relief as may be just and proper.

Dated at San Diego, California, October 30, 1942.

CONSOLIDATED AIRCRAFT  
CORPORATION

By PRUITT, HALE & COURSEN

Attorneys

420 Lexington Ave.

New York City

(Signed) ROYAL E. T. RIGGS

(Signed) HARRIS G. NELSON

Of Counsel

To:

National Labor Relations Board

Washington, D. C.

National Labor Relations Board

21st Region, U. S. Post Office & Courthouse

Los Angeles, California

International Association of Machinists,

Aircraft Lodge No. 1125, A.F.L.

1133 Fourth Avenue

San Diego, California

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[Title of Board and Cause.]

NOTICE OF HEARING

Please Take Notice that pursuant to authority vested in the National Labor Relations Board under an Act of Congress (49 Stat. 449), a hearing will be held before the National Labor Relations Board on Thursday, December 3, 1942, at 10:30 a.m., in Room 326, Shoreham Building, Fifteenth and H Streets, N.W., Washington, D.C., for the purpose



of oral argument in the above-entitled matter. Argument will be limited to one-half hour for each party, and you are hereby advised that in view of the Board's docket, no request for additional time made at the hearing will be granted.

You may appear and be heard if you so desire.

Should the party requesting oral argument decide not to appear, such party must immediately notify the Board and all other parties. This is necessary in order to avoid serious inconvenience and expense to other parties.

Dated, Washington, D. C., November 18, 1942.

[Seal]

BEATRICE M. STERN

Executive Secretary

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[Title of Board and Cause.]

Room 442  
Shoreham Building  
Washington, D. C.

A hearing was held in the above matter for the purpose of Oral Argument at the above place December 3, 1942 at 10:30 a. m.

Before:

Harry A. Millis, Chairman  
William M. Leiserson, Member  
Gerard D. Reilly, Member

Appearances:

Grace McEldowney, of Counsel to the Board

For the Company:

Royal T. Riggs

c/o Consolidated Aircraft

San Diego, Cal.

For the Union:

Paul Hutchings, I.A.M.

Machinists Bldg.

Washington, D. C.

United States of America

Before the National Labor Relations Board

Case No. C-2378

In the Matter of

CONSOLIDATED AIRCRAFT CORPORATION

and

INTERNATIONAL ASSOCIATION OF  
MACHINISTS, AIRCRAFT LODGE

No. 1125, A.F.L.

Mr. Daniel J. Harrington and

Mr. Charles M. Ryan,  
for the Board.

Mr. Royal E. T. Riggs,

Mr. Vern B. Thomas, and

Mr. Harris C. Nelson,  
of San Diego, Calif., and  
Pruitt, Hale & Coursen,  
of New York City,  
for the respondent.

Mr. Paul Hutchings,  
of Washington, D. C.,  
for the Union.

Miss Grace McEldowney,  
of counsel to the Board.

## DECISION AND ORDER

### Statement of the Case

Upon a second amended charge duly filed on July 17, 1942, by International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., herein called the Union, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint dated July 23, 1942, against Consolidated Aircraft Corporation, San Diego, California, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices, within the meaning of Section 8 (1), (3), and (5), and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the respondent and the Union.

With respect to the unfair labor practices, the complaint alleged in substance that the respondent: (1) during February 1940, and from May 1941 to the date of the complaint, (a) discriminated against union committeemen, (b) hindered and prevented them from performing their duties, (c) induced employees who protested against such actions to

resign, (d) threatened to discharge and to cancel departmental transfers of employees if grievances were presented on their behalf, (e) offered rewards to employees in order to induce them to abandon their union membership and activities, (f) advised employees that the Union would not bargain for them, (g) instructed employees not to remain members of the Union, and (h) advised them that it would be of no benefit to them; (2) on January 1, 1942, discharged, and thereafter refused to reinstate Arthur J. Fisher because of his union membership and activity; (3) on April 14, 1942, discharged, and thereafter refused to reinstate Oliver H. Williamson, except that about May 1, 1942, it reinstated him with prejudice to the rights and privileges to which he was entitled, because of his union membership and activity; (4) on or about June 12, 1941, and at all times thereafter, refused to bargain collectively with the Union, which was at all such times the exclusive representative of the employees of the respondent within an appropriate unit; and (5) by such acts, interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

Thereafter the respondent filed a motion for a bill of particulars, dated July 30, 1942, and an answer, dated July 31, 1942. In its answer, it admitted the allegations of the complaint with respect to its business, denied the commission of any unfair labor practices, and alleged certain affirmative matter by way of defense. On August 4, 1942,

the Trial Examiner issued an order directing counsel for the Board to furnish certain particulars to the respondent. Pursuant to this order, counsel for the Board thereafter furnished to the respondent a written bill of particulars dated August 7, 1942.

Pursuant to notice, a hearing was held at San Diego, California, from September 1 through 8, 1942, before Josef L. Hektoen, the Trial Examiner duly designated by the Acting Chief Trial Examiner. The Board and the respondent were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties.

At the close of the Board's case, counsel for the respondent moved to dismiss the complaint, and each of its allegations of unfair labor practices, for failure of proof. The motions were denied by the Trial Examiner. At the close of the hearing, he reserved ruling upon a renewal of the same motions, which he thereafter denied in his Intermediate Report. A motion of counsel for the Board to conform the complaint to the proof in respect to formal matters was granted. During the course of the hearing, the Trial Examiner made rulings on other motions and on the admissibility of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial error was committed. The rulings are hereby affirmed. At the close of the hearing, counsel for the Board and the respondent argued orally, on the record, before the



Trial Examiner. A brief was thereafter filed with him by the respondent.

Thereafter, the Trial Examiner filed his Intermediate Report, dated October 16, 1942, copies of which were duly served upon the parties. He found that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the Act, and recommended that the respondent cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. On November 9, 1942, the respondent filed exceptions to the Intermediate Report, and on November 12, 1942, a brief in support of its exceptions.

Upon request of the respondent and pursuant to notice, a hearing was held before the Board in Washington, D. C., on December 3, 1942, for the purpose of oral argument. The respondent and the Union were represented by counsel and participated in the hearing.

The Board has considered the exceptions and briefs filed by the respondent and, except insofar as the exceptions are directed to the Trial Examiner's conclusions that the respondent has engaged in unfair labor practices within the meaning of Section 8 (3) and (5) of the Act, finds them to be without merit.

Upon the entire record in the case, the Board makes the following:

## FINDINGS OF FACT

## I. The business of the respondent

The respondent, Consolidated Aircraft Corporation, San Diego, California, is a Delaware corporation having its principal office and a plant at San Diego, California, where it is engaged in the design, manufacture, development, and sale of aircraft, aircraft parts, and accessories. During the fiscal year ended November 30, 1941, it purchased materials, supplies, and equipment having a value in excess of \$5,000,000, more than 50 percent thereof being obtained from points outside the State of California. During the same period it sold finished products having a value of \$95,000,000, substantially all of which were delivered to points outside the State of California. Its sales during the fiscal year ended December 31, 1941, to the United States Army and Navy, were made f.o.b. factory, San Diego, California.

The respondent admits that it is engaged in commerce, within the meaning of the Act.

## II. The organization involved

International Association of Machinists, Aircraft Lodge No. 1125, is a labor organization affiliated with the American Federation of Labor. It admits to membership employees of the respondent.

## III. The unfair labor practices

## A. The alleged refusal to bargain; the alleged discriminatory discharges

## 1. The contract

On June 12, 1941, the respondent and the Union

entered into a written agreement<sup>1</sup> in which the respondent recognized the Union as the exclusive collective bargaining representative of all hourly paid employees and salaried inspectors, except supervisory inspectors and confidential clerks;<sup>2</sup> agreed, in lieu of granting the Union a closed shop, to recommend membership in the Union to its employees; and further agreed not to intimidate or in any way discriminate against any employee because of union activities. The contract also defined the workweek, established minimum rates of pay and hours of employment, set up a joint committee of representatives of the Union and the respondent to review hourly wage rates in each department in April and October of each year, provided for the granting of "interim individual increases" in pay, and established a grievance procedure. In addition, it provided for arbitration "if any of the terms, provisions, or rates

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(1) This agreement, which superseded a prior agreement between the parties dated April 15, 1940, was to remain in effect for "two years from its date or for the period of the Unlimited National Emergency proclaimed by the President of the United States on 27 May 1941, whichever is the longer, or until amended by agreement after 15-day notice by either party."

(2) This unit is substantially the unit which we have previously found appropriate for the purposes of collective bargaining. Matter of Consolidated Aircraft Corporation and International Association of Machinists, Aircraft Lodge No. 1125, 2 N.L.R.B. 772; Matter of Consolidated Aircraft Corporation and International Union, United Automobile Workers of America, Local No. 506, C.I.O., 7 N.L.R.B. 1061, 8 N.L.R.B. 205.

covered by this agreement are not settled satisfactorily by the parties hereto.”

On October 18, 1941, the contract was amended to provide for a 13-cent per hour increase in pay, retroactive to August 9, 1941, for all employees who were on October 11, 1941, receiving more than 65 cents an hour. On March 5, 1942, it was further amended to provide for continuing wage reviews, by departmental committees, for all employees on completion of 6 months' continuous employment with the respondent, with appeal to a "General Wage Committee," consisting of three representatives of the Union and three of the respondent, in deadlocked cases, and arbitration in the event of disagreement by the general committee. The grievance procedure was also amended in various respects, in particular by the addition of a provision for arbitration in case of disagreement between the committees representing the respondent and the Union. At the time of the hearing the contract, as so amended, was still in effect.

2. The disputes arising after the execution  
of the contract

a. The interim individual wage increases

As stated above, the contract provides for "interim individual increases" in pay. Nevertheless, on November 11, 1941, I. M. Laddon, then the respondent's works manager, without consulting the Union, informed all department heads of the respondent that no further interim increases were to be granted until April 1942. The Union protested the respond-



ent's action in thus suspending the provisions of the contract; and on January 22, 1942, after conferences between representatives of the Union and the respondent, Laddon<sup>3</sup> informed the department heads that the practice of granting interim increases was to be resumed. The Union declared itself satisfied with this action.

During January, February, and March 1942, however, the respondent put a number of increases into effect in the purchasing department without consulting the union committeeman of the department as required by the contract.<sup>4</sup> The Union protested to Herman R. Wiseman, then the respondent's labor relations director. Wiseman promised to instruct the foreman of the department to consult the union committeeman before actually granting such increases. Shortly thereafter the respondent, again without consulting the union committeeman of the department concerned, granted some 375 interim increases in the inspection department. The Union again protested. The respondent's management admitted that the increases had been improperly promulgated and offered to withdraw them and renegotiate them with the Union, but the Union did not insist on this action. On April 11, 1942, C. T. Leigh,

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(3) About January 1, 1942, Laddon became vice president and general manager of the respondent.

(4) The contract provides that "in accordance with past practice, the Company will approve interim individual increases when justified, after consulting the foreman and the union committeeman of the department concerned."



the respondent's vice president and assistant general manager, gave detailed instructions to the respondent's department heads respecting future interim changes in wages. His instructions have since been followed; and Roy M. Brown, the Union's Grand Lodge representative, stated at the hearing that the parties had reached "a satisfactory solution to handle all of those particular cases and also cases in the future, but only after the damage had been done \* \* \*"

b. The petitions and the notice of December 13, 1941

On the night of December 10, 1941, San Diego had a blackout necessitating the cessation of work in the respondent's plant. The night shift lost much working time in consequence. On December 11 petitions, the source of which is not disclosed in the record, were circulated among the employees. Those signing them volunteered their time to paint the plant "during daylight hours" so that operations might continue during future blackouts. On Saturday, December 13, the respondent, without consulting the Union, circulated petitions among the employees reading, "In view of the present war situation we, the undersigned, offer to work this Sunday at time and a-half."<sup>5</sup> On the same day, without consulting the Union, the respondent posted the following notice, signed by Works-Manager Laddon:

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(5) We find, as did the Trial Examiner, that the plant was then operating 6 days a week, and that it continued to do so throughout the remainder of the period under consideration herein. The contract provided that "work on the seventh consecutive day shall be paid for at double time."

## NOTICE TO ALL EMPLOYEES

In line with President Roosevelt's desire for a 7-day week, those employees who volunteered to work Sunday without pay may do so. Those men are not to ring their time cards. Other employees who signify in writing that they desire to work Sunday at time and one-half will ring their time cards and be paid accordingly. The above applies to certain jobs in Jigs and Fixtures, Tool Room, Machine Shop, Fuselage, Paint Shop, Sheet Metal, Welding, and blackout painting. No other departments will work.

Upon being informed of these actions by the respondent, the Union, after unsuccessfully protesting them to Laddon and R. H. Fleet, then president of the respondent, and after a special meeting, permitted its members who desired to work on Sunday, December 14, to do so, on condition that they "punch their time clocks." It is conceded by the Union that subsequently, after conferences between representatives of the respondent and the Union, those who worked on December 14 received double time pay in accordance with the terms of the contract.

## c. The crane operators

During February 1942, committees representing the Union and the respondent met and discussed the pay of crane operators. The Union contended that these employees should be paid 93 cents per hour, basing its contention on the fact that a 75-cent hourly rate, established in a wage review in April

or May 1941, had been followed by general increases of 5 cents and 13 cents an hour in May and October, respectively. The 93-cent rate was not being paid to newly hired crane operators or those transferred to the "parts plant," and the respondent took the position that it would not agree on any "base rate of pay" for these operators. In the course of the negotiations L. A. Perry, the union representative, on February 21, 1942, wrote Wiseman asking that the respondent immediately name two arbitrators to consider the matter. No reply was received by the Union, and in reply to Perry's telephoned inquiry of February 24, Wiseman informed him "that the Company had nothing to arbitrate" and that "they considered that the matter was entirely irrelevant and that they were not going to consider it." The matter was subsequently settled, without arbitration, through consideration of the pay rates of the individual crane operators by the wage review board.

d. The employees hired outside California

During January and February 1942, the respondent hired a number of employees outside California at wages and for positions mutually agreed upon by the respondent and the employees in question. After their arrival at the plant, the respondent, without notice to the Union, decreased the wages or changed the positions of some 21 or 22 such employees. The Union, in presenting grievances on their behalf to Wiseman, took the position that the respondent should have consulted the Union as the representative of the affected employees before changing their

jobs or pay. Wiseman refused to act upon the grievances, stating that the employees had misrepresented their capabilities and that the respondent was paying them what they were worth. After meetings between representatives of the parties, assisted by a conciliator from the Conciliation Service of the United States Department of Labor, the respondent agreed to make retroactive payments to many of the employees involved and to furnish the cost of transportation to their homes to others. On April 21, 1942, the Union wrote the respondent that the employees affected had approved the proposed settlement. The payments were thereafter made and the matter was amicably disposed of.

e. The third shift

During the first part of March 1942, after conferences with the Union, the respondent instituted a third shift, to begin work at midnight. It was agreed that employees on this shift would receive the 8-cent differential paid for night work under the contract, and, in addition, would receive 8 hours' pay for 6½ hours' work. No mention was made, during the negotiations, of the days of the week on which this shift would work.

On March 9, 1942, the respondent, without notice to the Union, issued an order establishing the working hours of the three shifts. Under this schedule, to become effective March 14, the third shift was to begin its workweek at midnight on Monday. Since the respondent was then operating on a 6-day week, the effect of the order was to cause this shift to work from midnight Saturday to 7 a.m. Sunday.



On March 12, the Union wrote Wiseman that, under the terms of the contract, the Union expected any Sunday work of the third shift to be paid for at double time.<sup>6</sup> On March 14, Wiseman replied that the respondent was "unable to read this interpretation into the agreement," and that employees on the third shift would receive the same weekly pay for 39 hours as employees on the second shift for 48 hours. Despite the Union's continuing protests, the respondent has maintained this position.

f. The job classifications

Early in 1942, the respondent unilaterally adopted a schedule of job classifications covering the employees represented by the Union. During February the Union protested that job classifications were properly a subject for collective bargaining. The respondent, by Wiseman, told the Union that it would not negotiate with the Union respecting classifications at that time. On March 25 the Union wrote the respondent, requesting that bargaining conferences be held respecting classifications and rates of

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(6) The pertinent sections of the contract are as follows:

4. Hours: The work week shall consist of forty hours of five consecutive days, from Monday thru Friday \* \* \*

5. Overtime Pay: Work after eight hours on any shift shall be considered overtime, payable at time and one-half. After three hours overtime on any one day and eight hours overtime on Saturday (payable at time and one-half), double time shall be paid. With the exception of custodial employees, work on the seventh consecutive day shall be paid for at double time.



pay. The respondent did not reply. On May 1 the Union in writing repeated the request. At the time of the hearing, the Union had received no reply from the respondent, nor had the respondent complied with the Union's requests for a copy of the respondent's job classification schedule. The respondent contends, however, that the job classifications schedule was merely for its own guidance in employing new employees and stabilizing classifications in its plants, that the Union's request for bargaining with respect to classifications and rates was inconsistent with the contract provision for individual wage reviews, and that any grievance with reference to an individual employee could have been taken to arbitration under the contract. It further contends that the fact that the entire matter of wage stabilization, including job classification and wage rates, is now under consideration by the Government, makes it impossible for the respondent to bargain with the Union regarding it.

### 3. The discharges

#### a. Arthur J. Fisher

Fisher began work for the respondent in December 1939 as a punch-press operator at 75 cents an hour. He joined the Union early in 1940 and was active in organizing his department. At the hearing he testified without contradiction, and we find, as did the Trial Examiner, that shortly after his initiation into the Union, his foreman, Henry J. Liegal, told him that he might become a leadman if it were not for his union activities. In June 1940 he was transferred to a different job in the

same department at an increase in pay; but on July 26, 1940, shortly after he had opposed a change which the respondent had requested in regard to overtime pay, Liegal discharged him as incompetent.

On August 14, 1940, after action by the Union, Fisher was rehired by the respondent, and started work in the wing department. On January 1, 1941, he became union committeeman of that department. During January, according to his testimony, his foreman, Stephen J. Powell, told him that, if he gave up his union activities, Powell would arrange to have him advanced to a better position.<sup>7</sup> When the parts plant was opened about June 1941, Fisher was transferred to it, and he there became chairman of the union committeemen, a position which he retained until he was discharged on January 1, 1942, allegedly for disobeying the rules of the respondent by leaving his department without permission. He was then earning \$1.06 an hour.

There is contradictory testimony in the record as to the respondent's rules in requiring permission for an employee to leave his department and as to the application of such rules to Fisher as union committeemen's chairman.<sup>8</sup> It is clear, however, that

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(7) Although Powell denied having made this remark, the Trial Examiner found him an unimpressive witness who gave contradictory testimony on many issues. We find, as did the Trial Examiner, that Powell made the remark attributed to him by Fisher.

(8) In view of the reasons for our decision, set forth below, it is unnecessary to discuss in detail or to resolve the conflicts in testimony on this point.

on July 23, 1941, Plant Manager George J. Newman issued a notice in the parts plant to the effect that, with certain exceptions not material to this case, "no one is permitted to leave their department without the permission of the foreman in charge" and that unauthorized departure would be cause for dismissal; and that he issued a second notice on August 26, 1941, that "Bright red buttons are being issued to the foremen, who will see each man leaving the department is supplied with one." Despite these notices, Fisher, according to his testimony, was permitted to follow the arrangement he had had with Foreman Powell<sup>9</sup> in the wing department that he could leave on union business if he merely notified Powell or, in his absence, one of his clerks. However, the record shows that thereafter, during the autumn of 1941, Lawrence E. Mineah, Fisher's foreman, objected to Fisher's leaving the department without his permission, although Fisher had notified Mineah's clerk, and told him to stay on the job in the future.

On December 13, 1941, Fisher admittedly left his department without permission a few minutes before quitting time in order to protest against the respondent's notice regarding Sunday work. On this occasion Newman, according to Fisher, said to him, "What the hell are you? A slant eyed Jap lover, a Hitlerite or a God damned Communist," and warned him, "Fisher, you know you are tread-

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(9) When the parts plant opened, Powell became assistant factory manager under Newman.

ing on thin ice \* \* \* The first of the year you are all done.'"<sup>10</sup>

On the morning of January 1, 1942, Fisher again left his department on union business, this time after obtaining a "rover's button" by telling one of Mineah's clerks that he had the permission of his supervisor, Elmer Gahlbeck, to leave. On his way through the plant he met Newman and two of his assistants. Newman asked to see Fisher's button, which the latter produced, explaining that he was on union business. Nevertheless, Newman sent him back to his job; and, after obtaining denials from Mineah and Gahlbeck that they had authorized Fisher's departure, Newman told Mineah to discharge Fisher for disobeying company rules. This was done, and Fisher left the plant.

After Fisher's discharge, representatives of the Union in conferences with representatives of the respondent unsuccessfully sought to obtain his reinstatement. Newman stated, however, that he would not reemploy Fisher under any conditions. On March 19, 1942, L. A. Perry, union representative, personally delivered a letter to Wiseman asking whether the Union was correct in believing that the respondent would not further consider Fisher's case. Wiseman refused to accept it, stating that he considered the letter "a legal trick." No attempt

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(10) Although Newman denied, in part, the statements attributed to him by Fisher, on the basis of the record as a whole we find, as did the Trial Examiner, that Newman made them substantially as testified to by Fisher.



was made by the Union to have the matter referred to arbitration.

b. Oliver H. Williamson

Williamson worked for the respondent as a jig builder from June 29, 1940, to April 18, 1941, when he resigned. He returned to work during September 1941, and worked on the night shift in the parts plant until April 14, 1942, when he was discharged, allegedly for having caused a disturbance at his place of work.

Williamson joined the Union in September 1940, and became night shift committeeman of his department on March 1, 1942. In that capacity, on April 14, 1942, he protested against the respondent's action in sending a policeman to escort Walter Brown, an employee in his department, out of the plant, a procedure which indicated that Brown had been discharged, whereas actually he had resigned. On this occasion, while trying to find Foreman Milton C. Hangen, Williamson was told by Hangen's assistant, James H. Eastin, to stop his activities and go back to work. Williamson nevertheless continued to talk in a loud voice about the way the plant was being operated to a group of 8 to 12 employees who gathered at the scene. While he was doing so, Henry J. Liegal, the superintendent of the night shift in the parts plant, said to him: "You are one of these damned Union agitators \* \* \* You better be careful or you will know what I am going



to do to you.”<sup>11</sup> Liegal and Williamson then started toward Liegal’s office to continue their conversation, but on the way met Hangen, to whom Williamson repeated his strictures against the respondent. Hangen, on Liegal’s instructions, thereupon discharged Williamson; and the notation, “Discharged—Agitator,” was entered on Williamson’s service record.

Thereafter, a committee of the Union met with representatives of the respondent regarding the matter and, as a result of their conferences, Williamson was reemployed on the day shift on May 1, 1942, without loss of seniority, and his employment record was changed to read, “Disciplinary Layoff—2 wks. without pay.” On April 30, 1942, the Union wrote the Regional Director of the Board that the charge previously filed by the Union against the respondent respecting Williamson’s discharge had “been settled to the satisfaction” of the Union.

#### 4. Conclusions as to the alleged refusal to bargain and the alleged discriminatory discharges

The respondent’s alleged refusal to bargain consists of its conduct in connection with the interim individual wage increases, the petitions and notice of December 13, 1941, the crane operators, the employees hired outside California, the third shift,

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(11) Although Liegal denied making these remarks, the Trial Examiner credited Williamson’s testimony. We find, as did the Trial Examiner, that the events took place as related by Williamson.

and the job classification schedule.<sup>12</sup> In each of these instances, the respondent took unilateral action in a matter involving the interpretation and administration of its collective contract with the Union. As we point out in Section III B below, it was improper for the respondent to take its action in these matters without prior notice to or consultation with the Union. We are not, however, convinced that this series of unilateral decisions by the respondent was part of a conscious campaign on its part to undermine the authority and prestige of the Union as the collective bargaining representative of the respondent's employees or to evade the respondent's obligation to recognize and deal with the Union as such representative. This, we think, is demonstrated by the respondent's willingness to bargain with the Union as to these matters after the Union had objected to the action taken by the respondent and also by the fact that all but two of the issues thus raised were in fact amicably settled as a result of this collective bargaining between the parties after the event. The two issues not thus amicably disposed of were the operation of the third shift and the job classification schedule adopted by the respondent. With respect to these

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(12) At the hearing, counsel for the Board contended that the respondent refused to bargain with the Union in regard to Fisher and also in regard to A. B. Mergen, an employee who was discharged in December 1941, but whose discharge is not alleged to have been discriminatory. The Trial Examiner found no refusal to bargain in either case. The Union has not excepted to his finding, and we agree.

unsettled issues, however, the Union made no attempt to utilize the grievance and arbitration machinery established by its collective contract with the respondent. That contract established a procedure for the handling of grievances and further provided that any dispute between the parties as to the terms, conditions, or rates established in the agreement could, if not amicably settled, be taken to arbitration. The Union has failed to utilize this contractual machinery for the settlement of the disputes which have given rise to the present proceeding, but instead has filed the charges upon which the complaint herein is based. In effect, therefore, we are being asked to intervene in the interpretation and administration of a collective contract, and to pass on disputes as to the meaning of a contract by considering and determining whether any unfair labor practices have taken place within the meaning of the Act.

We have held before that the execution of a collective contract does not end the process of collective bargaining, and that the interpretation and administration of a contract already made and the settlement of disputes arising under any such contract are properly regarded as within the sphere of collective bargaining.<sup>13</sup> Clearly, therefore, a refusal by an employer to bargain collectively within that area might constitute an unfair labor practice

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(13) Matter of North American Aviation, Inc. and United Automobile, Aircraft and Agricultural Implement Workers of America, Local 887, C.I.O., 44 N. L. R. B., No. 118.

within the meaning of the Act; and the existence of a collective contract between the parties involved does not preclude the Board from finding that unfair labor practices have taken place and issuing an appropriate order.<sup>14</sup> We are of the opinion, however, that it will not effectuate the statutory policy of "encouraging the practice and procedure of collective bargaining" for the Board to assume the role of policing collective contracts between employers and labor organizations by attempting to decide whether disputes as to the meaning and administration of such contracts constitute unfair labor practices under the Act. On the contrary, we believe that parties to collective contracts would thereby be encouraged to abandon their efforts to dispose of disputes under the contracts through collective bargaining or through the settlement procedures mutually agreed upon by them, and to remit the interpretation and administration of their contracts to the Board. We therefore do not deem it wise to exercise our jurisdiction in such a case, where the parties have not exhausted their rights

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(14) *N.L.R.B. v. Newark Morning Ledger Company*, 120 F. (2d) 266, modifying and enforcing Matter of Newark Morning Ledger Company and American Newspaper Guild, 21 N.L.R.B. 988, cert. denied 314 U.S. 693. See also Section 10 (a) of the Act, which provides: "The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice \* \* \* affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise."



and remedies under the contract as to which the dispute has arisen. Under the circumstances, we shall dismiss the complaint herein without prejudice, insofar as it alleges that the respondent refused to bargain collectively with the Union, within the meaning of Section 8 (5) of the Act. We do not now pass on the question of whether the respondent's conduct would under other circumstances constitute unfair labor practices.

Both at the hearing herein and in the course of oral argument before the Board, the parties admitted that the discharge of Fisher (and, by inference, that of Williamson as well) could have been taken to arbitration under the contract.<sup>15</sup> For the reasons stated above, we shall therefore also dismiss the complaint without prejudice, insofar as it alleges that the respondent discriminated in regard to the hire and tenure of employment of Arthur J. Fisher and Oliver H. Williamson, within the meaning of Section 8 (3) of the Act.

B. Interference, restraint, and coercion

On April 28 and 29, 1942, Timekeeper Albert L. Condon, acting as temporary union committeeman, interviewed William M. Shanahan, the respondent's treasurer, with respect to a request by employee L. D. Hardman for an increase in pay based upon his length of service in Shanahan's department.

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(15) With respect to Williamson, the record shows in addition that the question of his discharge was settled to the mutual satisfaction of the parties through collective bargaining, and we see no reason under the present circumstances for interfering with this settlement.



Hardman was to be transferred to the materials department and desired action to be taken on his pay raise before the transfer took effect, since he would lose his seniority by it. Shanahan had previously told Hardman that his semi-annual wage review would have to wait until he had completed his required length of service and that the department in which it was conducted would depend on where Hardman was employed at that time. Shanahan informed Condon that, since the latter was himself leaving the next day, the matter should be taken up by his successor. Condon testified without contradiction and we find, as did the Trial Examiner, that Shanahan then warned him that, if a grievance were filed in respect to Hardman, the latter's transfer would be canceled with the result that he would be "terminated", and that anyone who tried to do anything about the Hardman case would get into trouble.

Everett M. Shannon, union committeeman for the timekeepers, incurred the displeasure of Shanahan by demanding what the latter considered to be excessively large increases in pay for union timekeepers during the 1942 spring and summer wage reviews, thereby causing the majority of such cases on the lists from April to August, inclusive, to be taken to the general wage committee. Shannon testified that Shanahan at various times during this period demanded that he approve recommendations for increases without consulting the employees involved, urged him to drop his union job, and warned him to stay out of certain departments where his

union work normally took him. Shanahan admitted telling Shannon that he was displeased with the latter's activities in connection with the wage review procedure and that he could not deal with Shannon, but denied making any anti-union statements. Under all the circumstances revealed by the record, and on the basis of his observation of the witnesses, the Trial Examiner credited Shannon's testimony. We find, as did the Trial Examiner, that Shanahan made the statements attributed to him by Shannon.

On February 9, 1942, employee H. M. Prior wrote the Union that he had been promoted to assistant foreman and requested a withdrawal card. Don D. Wilkerson, union representative, told Prior that under the union constitution such a card could be issued only upon his becoming a general foreman, but that he could drop his membership if he so desired. On February 20, Labor Relations Director Wiseman wrote Wilkerson that he knew of Prior's letter and that, since Prior was not within the classification covered by the contract, "it will be appreciated if you will immediately act upon his request."

On May 20, 1942, C. W. Perelle, the respondent's vice president in charge of production, sent a confidential memorandum to William Renison, a supervisor, attaching a list of salaried employees who were "a part of [his] supervision" and who were "still paying dues to the Union," and stating that "obviously this is contrary to our policy." Perelle told Renison to discuss the matter with the em-

ployees affected, and stated: "If the individual does not desire to discontinue his affiliation with the Union, he certainly cannot be permitted to retain his present position, but must be transferred back to a job commensurate with his ability and attitude concerning membership in the Union."<sup>16</sup>

On June 2, 1942, the Union, by K. G. Phillips, representative, filed a grievance protesting the respondent's taking certain "hourly paid supervisors who came under the jurisdiction of the Union and placing them on the administrative pay roll (a salaried rate of pay)"<sup>17</sup> as contrary to the contract; protesting the action of Foreman Edward Stuart of the purchasing department in requesting such employees to write letters to the Union asking that they be removed from its rolls; and requesting the return of such transferred employees to hourly rates. About a week later, Phillips met with Thomas E. Vance, supervisor in the respondent's labor relations division. Vance told Phillips that the action of Stuart had been taken pursuant to Perelle's memorandum, which represented the respondent's policy. The record is silent as to whether and how the grievance was settled.

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(16) There is no showing that the respondent was attempting to preserve a neutral attitude in union affairs by insisting merely that supervisory employees not engage in union activities which might be regarded as interfering with the rights of non-supervisory employees.

(17) Phillips testified, and we find, as did the Trial Examiner, that such transfers were made without change in the job status of those involved.

We find, as did the Trial Examiner, that by Shanahan's statements to Condon in connection with the latter's presentation of the Hardman case and his statements to Shannon regarding the latter's activities as union committeeman;<sup>18</sup> by the activities of Wiseman and Perelle, highlighted by the latter's instructions that salaried employees who did not withdraw from the Union be transferred back to positions in keeping with their "attitude" toward union membership; and by the statements made by Liegal, Powell, and Newman to Fisher,<sup>19</sup> the respondent interfered with, restrained, and coerced its employees in the exercise of their rights under the Act.

Moreover, we find that the respondent's conduct in connection with the interim individual wage increases, the petitions and notice of December 13, 1941, the crane operators, the employees hired outside California, the third shift, and the job classifications, although not a refusal to bargain collectively with the Union, constituted interference with the rights of its employees under the Act. As the duly designated and recognized bargaining agent of

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(18) At the hearing counsel for the Board also contended that the respondent interfered with the union activities of Joseph J. Blake, chairman of the union committeemen in the home plant during the last half of 1941, and of Edward Barnes, also a union committeeman. The Trial Examiner found that the record does not support these contentions. The union has not excepted to his findings, and we agree.

(19) See Section III A 3(a), *supra*.



the employees, the Union was entitled to be notified of and consulted with respect to contemplated action by the respondent changing employees' terms and conditions of employment and affecting the contract between the respondent and the Union. Nevertheless, the respondent, whatever may have been its intent, repeatedly took such action without notice to or consultation with the Union, thereby impairing its status and effectiveness as the bargaining agent of the employees.

We find that the respondent, by its unilateral action in regard to matters within the scope of its contract with the Union, by the statements of Superinendent Liegal to Williamson, by the statements of Foremen Liegal and Powell and Plant Manager Newman to Fisher, by the statements of Treasurer Shanahan to Condon and Shannon, and by the acts and statements of Labor Relations Director Wiseman and Vice-President Perelle in requiring employees to give up their membership in the Union when they were promoted, has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

#### IV. The effect of the unfair labor practices upon commerce

The activities of the respondent set forth in Section III, above, occurring in connection with the operations of the respondent described in Section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes



burdening and obstructing commerce and the free flow of commerce.

#### V. The remedy

Having found that the respondent has engaged in and is engaging in certain unfair labor practices, we shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSIONS OF LAW

1. International Association of Machinists, Aircraft Lodge No. 1125, A.F.L., is a labor organization, within the meaning of Section 2 (5) of the Act.

2. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

3. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

4. The respondent has not engaged in unfair labor practices, within the meaning of Section 8 (3) of the Act, as alleged in the complaint herein.

5. The respondent has not engaged in unfair labor practices, within the meaning of Section 8 (5) of the Act, as alleged in the complaint herein.

## ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Consolidated Aircraft Corporation, San Diego, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

- (a) Post immediately in conspicuous places throughout its San Diego, California, plant, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraph 1 of this Order;

- (b) Notify the Regional Director for the Twenty-first Region in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

And It Is Hereby Further Ordered that the complaint be, and it hereby is, dismissed without prejudice, insofar as it alleges that the respondent engaged in unfair labor practices, within the meaning of Section 8 (3) and (5) of the Act.

Signed at Washington, D. C., this 18th day of February 1943.

HARRY A. MILLIS

Chairman

WM. M. LEISERSON

Member

[Seal]

NATIONAL LABOR RELATIONS BOARD

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[Title of Cause.]

AFFIDAVIT AS TO SERVICE

District of Columbia—ss.

I, Jack McCaleb being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 18th day of February, 1943, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Decision and Order to the following named persons, addressed to them at the following addresses:

International Association of Machinists

Aircraft Lodge No. 1125, A.F.L.

Att: Mr. Roy M. Brown

1054 3rd Street

San Diego, California

Mr. Paul R. Hutchings  
International Association of Machinists  
Machinists Building  
Washington, D. C.

Consolidated Aircraft Corporation  
Lindbergh Field  
San Diego, California

Mr. Royal E. T. Riggs  
Seibert & Riggs  
30 Broad Street  
New York, N. Y.

Mr. H. E. Weihmiller  
Consolidated Aircraft Corp.  
610 Trust Bldg.  
Washington, D. C.

Mr. Vern B. Thomas  
c/o Consolidated Aircraft Corp.  
San Diego, California

Pruitt, Hale & Coursen  
420 Lexington Avenue  
New York, N. Y.

Mr. Harris G. Nelson  
c/o Consolidated Aircraft Corp.  
San Diego, California

/s/ JACK McCALEB

Subscribed and sworn to before me this 18th day  
of February 1943.

[Seal] KATHRYN B. HARRELL  
Notary Public, D. C.

My commission expires March 1, 1947.

In the United States Circuit Court of Appeals  
For the Ninth Circuit

No. 10389

CONSOLIDATED AIRCRAFT CORPORA-  
TION,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,  
Respondent.

PETITION FOR REVIEW OF DECISION OF  
NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States  
Circuit Court of Appeals for the Ninth Circuit:

Comes now Consolidated Aircraft Corporation, a corporation organized and existing under the laws of the State of Delaware, and files its petition, pursuant to the provisions of Section 10 of the Act of Congress of July 5, 1935 (Ch. 372, 49 Stat. 449, U. S. Code, Title 29, §§ 151-166), known and cited as the National Labor Relations Act, for the review of the decision and order of the National Labor Relations Board entered at Washington, D. C., on February 18, 1943, ordering that petitioner cease and desist from in any manner interfering with, restraining, or coercing its employees in the exercise of the right of self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose



of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act; and respectfully shows to the Court as follows:

## I.

### Jurisdiction

The petitioner is a corporation organized and existing under the laws of the State of Delaware. Petitioner's principal office and place of business is in the City of San Diego, California.

Respondent, National Labor Relations Board, (hereinafter referred to as the "Board"), is an agency of the Government of the United States of America, created pursuant to the Act of Congress of July 5, 1935 (Ch. 372, 49 Stat. 449, U. S. Code, Title 29, §§ 151-166), commonly known, referred to, and cited as the National Labor Relations Act. Said Board has an office and Regional Director at Los Angeles, California, within the Ninth Circuit and within the jurisdiction of this court. As will hereinafter more fully appear, the so-called unfair labor practices in which it is alleged in this proceeding that the petitioner has been engaged, all occurred at San Diego, California, within the Ninth Circuit and within the jurisdiction of this Court.

## II.

### Statement of Proceedings

The proceedings were begun by the filing of a second amended charge on July 17, 1942 by International Association of Machinists, Aircraft Lodge

No. 1125, A.F.L. The Board, by the Regional Director for the Twenty-first Region at Los Angeles, California, issued its complaint dated July 23, 1942 against the petitioner, alleging that the petitioner had engaged in and was engaging in unfair labor practices, within the meaning of Section 8(1), (3), and (5) and Section 2(6) and (7) of the National Labor Relations Act.

The petitioner filed a motion for a bill of particulars, dated July 30, 1942, which was granted in part, and filed an answer dated July 31, 1942, in which it denied the commission of any unfair labor practices, and alleged certain affirmative matter by way of defense.

Pursuant to notice a hearing was held at San Diego, California from September 1 through September 8, 1942, before Joseph L. Hektoen, trial examiner. The Board and the petitioner were represented by counsel and participated in the hearing. Witnesses were introduced and cross-examined.

At the close of the Board's case counsel for the petitioner moved to dismiss the complaint and each of its allegations of unfair labor practices for failure of proof. The motions were denied and were renewed at the close of the hearing, and again denied.

Thereafter, the trial examiner filed his intermediate report, dated October 16, 1942, copies of which were served upon the parties, and found that the petitioner had engaged in and was engaged in unfair labor practices affecting commerce within

the meaning of Section 8(1), (3) and (5) and Section 2(6) and (7) of the Act, and recommended that petitioner should cease and desist from failing to bargain collectively with its employees, and that petitioner should reinstate one Arthur J. Fisher, alleged to have been discharged because of union activities, and that petitioner should cease and desist from interference, restraint and coercion of its employees in the exercise of the rights guaranteed under Section 7 of the Act.

Thereafter, a hearing was held before the Board in Washington on December 3, 1942, at which petitioner and the union were represented by counsel.

On February 18, 1942 the Board handed down its decision and order and statement of the case in which the Board dismissed without prejudice the charges that the petitioner refused to bargain collectively within the meaning of Section 8(5) of the Act, and dismissed without prejudice the charge that petitioner discriminated in regard to the hire and tenure of employment of said Fisher within the meaning of Section 8(3) of the Act, but found that the petitioner had interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and issued an order that the petitioner cease and desist from such practices and post a notice with reference thereto in its San Diego Plant.

A true copy of the said decision and order is hereto attached, marked Exhibit "A", and is made a part hereof.

## III.

## Declaration of Court

That petitioner is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business in the City of San Diego, California, and being aggrieved by the rulings, findings of fact, conclusions of law, opinion, decision and order aforesaid, asks a review thereof in accordance with the provisions of Section 10 of the National Labor Relations Act, by the United States Circuit Court of Appeals of the Ninth Circuit, within which circuit is located petitioner's place of business where the unfair labor practices in question are alleged to have been engaged in, and where the petitioner transacts business.

## IV.

## Assignments of Error

Petitioner, as a basis for review, makes the following assignments of error, to-wit:

(1) The Board's findings of fact in that part of the decision headed "B. Interference, restraint, and coercion" as to unfair labor practices on the part of this petitioner towards its employees are not supported by substantial evidence.

(2) The Board's findings of fact in that part of the decision headed "B. Interference, restraint, and coercion" are contrary to the evidence and contrary to the law.

(3) The Board's findings of fact in that part of the decision headed "B. Interference, restraint,

and coercion” as to unfair labor practices fail to show any acts of interference, restraint or coercion, or if such practices are regarded as attempted, fail to show that said acts resulted in any interference, restraint or coercion of any employees.

(4) The Board’s findings of fact in that part of the decision head “B. Interference, restraint, and coercion” afford no reasonable basis for an inference that unfair labor practices on the part of the petitioner are likely to continue in the future and afford no basis for relief in a court of equity.

(5) Finding IV entitled “The effect of the unfair labor practices upon commerce” is contrary to the evidence, contrary to the weight of evidence, not supported by substantial evidence, and is contrary to law.

(6) The Board erred in overruling the objection of the petitioner to the admission in evidence of Board’s Exhibit’s 8(a) to (e) inclusive.

(7) The Board erred in overruling petitioner’s motions to dismiss each of the allegations of unfair labor practices made by the petitioner at the close of the hearing.

(8) The Board erred in refusing to dismiss the complaint in its entirety.

(9) The facts found under that part of the decision headed “B. Interference, restraint and coercion” form no basis for the conclusions of law numbered 2 and 3 in the said decision and order, and the said conclusions of law numbered 2 and 3 are contrary to the facts and contrary to the law.



(10) The record affords no reasonable basis for an order of a court of equity that petitioner cease and desist from in any manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

## V.

### Prayer

Wherefore, the petitioner petitions this court for a review of the decision, findings, and order of the National Labor Relations Board dated February 18, 1943, and prays:

(1) That a copy of this petition and of the process of this court be served upon the respondent, National Labor Relations Board, as provided by Section 10 (f) of the National Labor Relations Act.

(2) That the National Labor Relations Board be directed and required by an appropriate order of this court, forthwith, to certify and file with this court, pursuant to Section 10 (f) of the National Labor Relations Act, a transcript of the entire record in the proceedings, including therein the trial examiner's report, and findings upon the facts, including all the exhibits and the originals of all papers filed with the Board from which the complaint was formulated and issued.

(3) That this petition for a review be preferred and heard and determined expeditiously.

(4) That the said decision and finding set forth under "B. Interference, restraint and coercion" and the provisions of the order be annulled, vacated, and set aside.

(5) That the National Labor Relations Board be ordered and directed to dismiss the complaint and proceedings.

(6) That the petitioner shall have such other and further relief as may be just and proper in the premises.

Dated this 11th day of March, 1943.

CONSOLIDATED AIRCRAFT  
CORPORATION

By H. WOODHEAD  
President

(Duly Verified.)

"EXHIBIT A"

[Printer's Note: Exhibit A is a copy of the Decision and Order of February 18, 1943, and is identical with the Decision and Order printed in full at pages 88 to 120 of this printed record.]

[Endorsed]: Filed Mar. 15, 1943. Paul P. O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

ANSWER OF THE NATIONAL LABOR RELATIONS BOARD AND REQUEST FOR ENFORCEMENT

To the Honorable the Judges of the United States Circuit Court of Appeals for the Ninth Circuit:

Comes now the National Labor Relations Board, herein called the Board, and pursuant to the National Labor Relations Act (49 Stat. 449, c. 372, 29 U.S.C., Sec. 151, et seq.), hereinafter called the Act, files this answer and request for enforcement of the Board's order.

1. The Board admits the allegations contained in paragraph I. of the Petition for Review.

2. Answering the allegations contained in paragraphs II. and III. of the Petition for Review, the Board prays reference to the certified transcript of the record, filed herein, of the proceedings heretofore had herein, for a full and exact statement of the pleadings, evidence, findings of fact, conclusions of law, and order of the Board, and all other proceedings had in this matter.

3. The Board denies each and every allegation contained in paragraph IV., in the subsections thereunder numbered (1)-(2) and (5)-(10), inclusive, of the Petition for Review.

4. Answering the allegations contained in paragraph IV., subsection (3) of the Petition for Review, the Board denies the allegations of such subsection insofar as they allege that "The Board's

findings of fact in that part of the decision headed 'B. Interference, restraint, and coercion' as to unfair labor practices fail to show any acts of interference, restraint, or coercion"; and

Answering the remaining allegations contained in that subsection, the Board neither admits nor denies such allegations, but states further that they are irrelevant and immaterial to any issue in this proceeding.

5. Answering the allegations contained in paragraph IV, subsection (4) of the Petition for Review, the Board neither admits nor denies the allegations of that subdivision, but states further that such allegations are irrelevant and immaterial to any issue in this proceeding.

6. Further answering, the Board avers that the proceedings had before it, the findings of fact, conclusions of law, and order of the Board, were and are in all respects valid and proper under the Act.

Wherefore, having answered each and every allegation contained in the Petition for Review, the Board respectfully prays this Honorable Court that said Petition be denied insofar as it prays that the Board's order be set aside and that petitioner shall have other and further relief.

Further answering, the Board, pursuant to Section 10 (e) and (f) of the Act, respectfully requests this Honorable Court for enforcement of its order issued against petitioner on February 18, 1943, in proceedings designated on the records of the Board as Case No. C-2378, entitled "In the Matter of Consolidated Aircraft Corporation and

International Association of Machinists, Aircraft Lodge No. 1125, A.F.L.”

In support of this request for enforcement of its order, the Board respectfully shows:

(a) Petitioner, a Delaware corporation, is engaged in business within this judicial circuit. This Court has jurisdiction of the Petition for Review herein and of this request for enforcement by virtue of Section 10 (a) and (f) of the Act.

(b) Upon proceedings had in said matter, as more fully shown by the entire record thereof, certified by the Board and filed with this Court herein, to which reference is hereby made, and including a complaint, bill of particulars, answer, order of the Trial Examiner directing counsel for the Board to furnish certain particulars, hearing for the purpose of taking testimony and receiving other evidence, brief filed with the Trial Examiner, Trial Examiner's report and exceptions filed thereto and brief filed in support thereof, and oral argument before the Board, as more fully shown by the certified record filed herewith, the Board on February 18, 1943, duly stated its findings of fact and conclusions of law, and issued its order directed to petitioner, its officers, agents, successors, and assigns. So much of the aforesaid order as relates to this proceeding provides as follows:

#### Order

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations



Act, the National Labor Relations Board hereby orders that the respondent, Consolidated Aircraft Corporation, San Diego, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

- (a) Post immediately in conspicuous places throughout its San Diego, California, plant, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraph 1 of this Order;

- (b) Notify the Regional Director for the Twenty-first Region in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

- (c) On February 18, 1943, the Board's decision

and order was duly served upon petitioner and all other parties.

(d) Pursuant to Section 10 (e) and (f) of the Act, the Board has certified the filed with this Court a transcript of the entire record in the proceeding.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this answer and request for enforcement, and of the filing of the certified transcript of the entire record in said proceeding, to be served upon petitioner, and that this Court take jurisdiction of the proceedings and of the questions to be determined therein, and make and enter upon the pleadings, evidence, and proceedings set forth in the entire record of said proceeding, and upon so much of the order made thereupon set forth hereinabove, a decree denying the petition to review and set aside, and enforcing in whole said order of the Board, issued on February 18, 1943, and requiring petitioner and its officers, agents, successors, and assigns to comply therewith.

Dated at Washington, D. C., this 21st day of April 1943.

NATIONAL LABOR RELATIONS BOARD

By ERNEST A. GROSS

Associate General Counsel

(Duly Verified.)

Before the National Labor Relations Board  
Twenty-first Region

Case No. XXI-C-1988

In the Matter of:

CONSOLIDATED AIRCRAFT CORPORATION (San Diego, California),

and

INTERNATIONAL ASSOCIATION OF  
MACHINISTS AIRCRAFT LODGE 1125, A. F.  
of L.

TESTIMONY

Conference Room,  
Chamber of Commerce Building,  
San Diego, California

Tuesday, September 1, 1942

The above-entitled matter came on for hearing,  
pursuant to notice, at 10:30 o'clock a. m.

Before:

Josef L. Hektoen, Trial Examiner.

Appearances:

Daniel J. Harrington,

Room 808 United States Post Office and  
Court House Bldg., Los Angeles, California,  
on behalf of National Labor Relations  
Board.

Charles M. Ryan,

808 United States Post Office and Court  
House Building, Los Angeles, California,  
on behalf of National Labor Relations  
Board.

Royal E. T. Riggs, and Vern B. Thomas,

Consolidated Aircraft Corporation, San  
Diego, California, on behalf of Consoli-  
dated Aircraft Corporation. [2\*]

### PROCEEDINGS

Trial Examiner Hektoen: We will be in order,  
please.

This is a formal hearing in the matter of Con-  
solidated Aircraft Corporation and International  
Association of Machinists, Aircraft Lodge No. 1125,  
American Federation of Labor. Case No. XXI-C-  
1988, before the National Labor Relations Board.

The Trial Examiner appearing for the National  
Labor Relations Board is Josef L. Hektoen, and  
the appearances as I have them for the Board are  
Daniel J. Harrington and Charles M. Ryan; and  
for the Aircraft, Royal E. T. Riggs and Vern B.  
Thomas, both of San Diego.

I presume that the Union is not represented by  
counsel. Is that right?

Mr. Ryan: The Union has no counsel here, do  
they, Mr. Brown?

Mr. Brown: No.

Trial Examiner Hektoen: The official reporter

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\* Page numbering appearing at top of page of original Reporter's  
Transcript.

makes the only transcript of these proceedings. Citations in briefs or arguments based upon the record, directed to the Trial Examiner or to the Board, must cite the official transcript in all references to the record. The Board will not certify any transcript other than the official transcript for use in any court litigation.

Should corrections become necessary in the record during [4] the hearing, the parties desiring the corrections will submit the suggested corrections to the other party or parties in writing. When this has received their written approval, it will be submitted to the Trial Examiner. If the parties cannot agree upon the proposed corrections, the Trial Examiner will then consider motions to correct the record or may, upon his own motion, order certain corrections made. If the parties have been unable to agree upon such corrections before the close of the hearing but have entered into a stipulation concerning such matters after the close of the hearing, such stipulations or motions should be addressed to the Trial Examiner in care of the Chief Trial Examiner in Washington. But after the receipt of the intermediate report, all such communications should be directed to the Board itself, inasmuch as the Trial Examiner's connection with the case ceases upon the transfer by the Board of the case to its staff.

Arguments with respect to motions or objections will not ordinarily appear in the official transcript. If counsel desire to argue motions or objections, they will please so indicate to the Trial Examiner



who may, if he considers argument necessary, go "off the record" for the purpose of hearing such argument. The official reporter takes everything that is said during the hearing by counsel, witnesses, and the Trial Examiner, unless the latter orders an off the record discussion. [5]

All requests to go off the record will, of course, be directed only to the Trial Examiner and not to the official reporter.

The Trial Examiner will allow an automatic exception to all adverse rulings and upon appropriate order an objection and exception will be permitted to stand to an entire line of questioning.

Five copies of all pleadings submitted during the hearings are to be filed with the Trial Examiner. All exhibits offered in evidence shall be in duplicate.

At the close of the hearing the parties may, if they so desire, argue orally before the Trial Examiner, if he believes that oral argument will be beneficial to his understanding of the contentions of the parties and the factual issues involved. The Trial Examiner may request oral argument from the parties and will feel free to discuss this and ask questions of the counsel or representatives of the parties with respect to their contentions as to the issues. Such argument will not be included in the record unless so ordered by the Trial Examiner.

Any party shall be entitled, upon request made at or before the close of the hearing, to file a brief

with the Trial Examiner who, before closing the hearing, will then indicate the time within which from the close of the hearing such briefs may be filed. Five copies thereof will be [6] directed to the Trial Examiner in care of the Chief Trial Examiner in Washington.

I have one or two other announcements to make. I dislike to make the ruling, in view of the fact that many of us seem to smoke, but we won't have any smoking during the hearing.

Also, in view of the situation in which the respondent finds itself, I want to announce now that in order that there may be a minimum of interruption through operations, I would be very glad to hold the hearing at any time and anywhere that would be more convenient, and eliminate any interruptions.

I have no other ideas about the situation, but I want counsel to know that now.

In the absence of anything further, I take it you can go ahead with the formal papers. [7]

Mr. Harrington: May I sit while I introduce these formal exhibits?

Trial Examiner Hektoen: Surely.

Mr. Harrington: If it please the Examiner, I should like to offer to be marked for identification as Board's Exhibit 1, with the appropriate subdivisions, the formal papers upon which this proceeding rests.

As Board's Exhibit 1-A, the second amended charge, filed on July 17, 1942, by International

Association of Machinists, Aircraft Lodge No. 1125, A. F. of L.

As Board's Exhibit 1-B, the complaint in this matter, signed by William R. Walsh, Regional Director for the Twenty-First Region of the National Labor Relations Board.

As Board's Exhibit 1-C, the notice of hearing in this matter signed by William R. Walsh, Regional Director for the Twenty-First Region of the National Labor Relations Board.

As Board's Exhibit 1-D, the affidavit of service signed by Marian Reimer, attesting to service of parties of the complaint, notice of hearing and the second amended charge on Consolidated Aircraft Corporation and on International Association of Machinists, Aircraft Lodge No. 1125, A. F. of L.

As Board's Exhibit 1-E, a sheet of paper to which are attached two postal return receipts attesting to service of the complaint, notice of hearing and second amended charge on [8] Consolidated Aircraft Corporation and International Association of Machinists.

As Board's Exhibit 1-F, a motion for a bill of particulars filed on July 30, 1942, by Consolidated Aircraft Corporation and signed by I. M. Laddin, Vice President and General Manager.

As Board's Exhibit 1-G the answer filed by Consolidated Aircraft Corporation in this proceeding and signed by W. Frank Persons, director of industrial relations department.

As Board's Exhibit 1-H the order designating Josef L. Hektoen as Trial Examiner.

As Board's Exhibit 1-I, the order signed by Josef L. Hektoen, Trial Examiner, ordering counsel for the Board to furnish a bill of particulars.

As Board's Exhibit 1-J, a bill of particulars dated August 7, 1942, and signed by Guy Farmer, Attorney for the National Labor Relations Board.

As Board's Exhibit 1-K, affidavit of service signed by Ida M. Meyers of the bill of particulars on Consolidated Aircraft Corporation and on International Association of Machinists.

As Board's Exhibit 1-L, a sheet of paper to which are attached two postal return receipts, attesting to service of the bill of particulars upon consolidated Aircraft Corporation and upon International Association of Machinists, Aircraft [9] Lodge No. 1125, A. F. of L.

As Board's Exhibit 1-M an order and notice of continuance signed by Robert Davies, Acting Regional Director for the Twenty-first Region of the National Labor Relations Board.

As Board's Exhibit 1-N affidavit of service signed by Ida M. Meyers, attesting to service of the order, notice of continuance on Consolidated Aircraft Corporation and on International Association of Machinists.

As Board's Exhibit 1-O, a sheet of paper to which are attached two postal return receipts attesting to service of the order and continuance of hearing upon the Consolidated Aircraft Corporation and on International Association of Machinists.

(The documents referred to were marked as Board's Exhibit 1-A to 1-O (inclusive) for identification.)

Mr. Harrington: I now show Board's Exhibits 1-A to O for identification to counsel (handing exhibit to Mr. Riggs.)

Mr. Riggs: I have no objection to any of these being received in evidence.

Trial Examiner Hektoen: Board's Exhibits 1-A to 1-O, both inclusive, may be admitted.

(Thereupon the documents heretofore marked for identification as Board's Exhibits 1-A to 1-O, inclusive, were received in evidence.)

[Printer's Note: Board's Exhibits Nos. 1-A to 1-O, inclusive, are set out in full at pages 1 to 32 of this printed record.]

Mr. Harrington: I now offer as Board's Exhibit 2 for [10] identification, a stipulation as to the business of the Consolidated Aircraft Corporation, signed by Mr. Riggs, as counsel for the corporation and by myself as attorney for the Board.

Mr. Riggs: No objection.

Mr. Harrington: I offer them in evidence as Board's Exhibit 2.

(The document referred to was marked as Board's Exhibit No. 2, and was received in evidence.)



## BOARD'S EXHIBIT No. 2

[Title of Board and Cause.]

## STIPULATION

It Is Hereby Stipulated and Agreed by and between Consolidated Aircraft Corporation, by its undersigned representative, and Daniel J. Harrington, attorney for the National Labor Relations Board, as follows:

1. That Consolidated Aircraft Corporation is a Delaware Corporation with its main office and plant at San Diego, California.

2. That Consolidated Aircraft Corporation is engaged in the design, manufacture, development and sale of aircraft, aircraft parts, and accessories.

3. That Consolidated Aircraft Corporation is one of the largest manufacturers of air boats in the United States, one of the largest contractors to the United States Navy for aircraft, and the second or third largest airplane manufacturing establishment in the United States.

4. That Consolidated Aircraft Corporation, in the course and conduct of its business, during the fiscal year ending November 30, 1941, spent in excess of \$5,000,000 for the purchase of materials, supplies and equipment, more than 50 percent thereof being purchased and transported from outside the State of California.

5. That Consolidated Aircraft Corporation, in the course and conduct of its business, during the fiscal year ending November 30, 1941, made sales of products aggregating \$95,000,000.

6. That substantially all of the sales of Consolidated Aircraft Corporation in the course and conduct of its business, during the fiscal year ending November 30, 1941, represented deliveries made outside the State of California, except that sales by Consolidated Aircraft Corporation, in the course and conduct of its business, during the fiscal year ending December 31, 1941, to the United States Army or the United States, were made F.O.B. factory at San Diego.

7. That Consolidated Aircraft Corporation is engaged in interstate commerce within the meaning of the National Labor Relations Act and the decisions of the United States Supreme Court thereunder.

Dated: This 1st day of September, 1942.

CONSOLIDATED AIRCRAFT  
CORPORATION.

By ROYAL E. T. RIGGS,

By Counsel.

DANIEL J. HARRINGTON,

Attorney National Labor

Relations Board.

[Title of Board and Cause.]

APPLICATION FOR SUBPOENA

The respondent hereby requests the issuance of a subpoena requiring Herman Wiseman to attend the hearing in this matter on the 5th day of September, 1942, at the Conference Room, Chamber of Commerce Building, San Diego, California, at 10:30

A. M. and requiring him to testify as a witness on behalf of the respondent.

The nature of the facts to be proved by said witness is as follows:

That the witness was appointed by the respondent to a committee delegated to meet with representatives of the International Association of Machinists, Aircraft Lodge #1125, A.F.L.; that he was present at approximately all of the conferences held by said committees and is familiar with the subjects and grievances which came up for discussion and negotiation and will testify concerning such subjects and grievances.

Respectfully submitted,

CONSOLIDATED AIRCRAFT  
CORPORATION.

By ROYAL E. T. RIGGS.

Office and Post Office address of Respondent:  
3302 Pacific Highway, San Diego, California.

To .....

Trial Examiner.

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Mr. Harrington: Mr. Examiner, do you desire at this time to read the complaint?

Trial Examiner Hektoen: I have already ordered a bill of particulars filed so I consider myself fairly familiar with it. [11]

## BOARD'S EXHIBIT No. 3

Agreement  
Between  
Consolidated  
Aircraft  
Corporation  
and the  
International  
Association of  
Machinists,

Aircraft Lodge No. 1125  
American Federation of Labor  
San Diego, California

Covering all hourly-paid employes of Consolidated  
Aircraft Corporation with respect to rates of  
pay, wages, hours, and other conditions  
of employment.

12 June, 1941

With Amendments to 5 March 1942.

## FOREWORD

This agreement has been negotiated in accordance with law and in compliance with two certifications of the National Labor Relations Board following elections at which the hourly-paid employees of Consolidated Aircraft Corporation selected the International Association of Machinists, Aircraft Lodge No. 1125, which may, for the convenience of the Lodge and by mutual consent of the parties hereto, be divided into sub-lodges thereof, to represent them as the collective bargaining agency with the company.

(Board's Exhibit No. 3—Continued)

### UNION AGREEMENT

Agreement made this 12th day of June, 1941, between Consolidated Aircraft Corporation, herein called the "Company" and International Association of Machinists, Aircraft Lodge No. 1125, herein called the "Union";

Witnesseth:

Whereas, there have been held at the company's plant at the direction and under the supervision of the National Labor Relations Board two separate and successive elections for the unit defined by said Board as comprising the then hourly-paid employees of the Company to determine representation for the purpose of collective bargaining with their employer, and

Whereas, in such elections the Union received a majority not only of the ballots cast but also of all employees qualified to vote and embraced within such unit, and

Whereas, the Union desires to enter into agreement with the Company with respect to rates of pay, wages, hours, and other conditions of employment, and

Whereas, it is the purpose of this agreement to promote continuity of work by friendly relations between the Company and the Union:

Now, Therefore, in consideration of the premises, the parties hereto agree as follows:

1. Recognition: The Company recognizes the



## (Board's Exhibit No. 3—Continued)

Union as the exclusive collective bargaining representative of all employees in the unit defined by the National Labor Relations Board, namely, all hourly- (4) paid employees and salaried inspectors (except supervisory inspectors and confidential clerks). During the term of this Agreement, in lieu of the Union's request for a closed or Union shop or preferential hiring, all persons who are hereafter employed by the Company and who are eligible for membership in the Union shall be given by a Company representative before beginning work a copy of this Agreement, a Company Rule Book, and a Union membership application to which is attached a dues deduction order, to run for the term of this agreement, which membership and order the Company hereby recommends providing the total initial cost of such membership is not greater than \$5.00 and the dues are not greater than as set forth in Section 3 hereof. The Union agrees that there shall be no solicitation of employees for Union membership or for dues, fines, or assessments, on Company time, and that it will accept for Union membership for the term of this contract any present or future hourly-paid employee of the Company, and that the Union will not discriminate in any way against any employee because, before joining the Union, he may have opposed it or its acts in any manner. The Company agrees to distribute the above stated literature to all its present employees who are eligible for membership in the Union, and to recommend their joining.

## (Board's Exhibit No. 3—Continued)

2. Rates of Pay: Effective 9 August, 1941, the minimum rate of pay of all present and future employees of the Company (unless an apprentice or training system is adopted) shall be 60 cents an hour for the first four weeks of continuous employment; 65 cents an hour for the second four weeks of such continuous employment; 70 cents an hour for the third four weeks of such continuous employment; and 75 cents an hour after the twelfth week of such continuous employment.

An eight cent an hour bonus shall be paid all hourly-paid employees on night shifts, and on regular day shifts which include both Saturdays and Sundays.

Leadmen shall be paid at least eight cents per hour more than the highest rate paid to employees regularly assigned to work under their supervision, and supervisors shall be paid ten cents an hour more than the highest rate paid to leadmen regularly assigned to work under their supervision.

3. Wage Rates: The Union and the Company shall establish and maintain joint committees to review by mutual agreement hourly wage rates of employees in each department upon completion of each individual's six months period of continuous employment with the Company. Each wage review committee shall consist of six members, three from the Union and three from the Company, who are Company employees. One of the Union members shall be rotated so that the Union Committeeman of each department can serve as a member of the

## (Board's Exhibit No. 3—Continued)

Committee during the time the rates of his department are being reviewed. If a wage review committee fails to reach an agreement in regard to any case brought before it, then and in that event, the matter in question shall be referred in writing within 24 hours to a General Wage Committee consisting of three men from each party to this Agreement. Within five days after the General Wage Committee has received a deadlocked case, a decision shall be handed down. In the event the General Wage Committee is unable to reach an agreement, the matter shall be submitted to arbitration as provided for in Article 23 of this Agreement. In accordance with past practice, the Company will approve interim individual increases when justified by proof of the individual involved that he has been performing work which work calls for a higher rate, job or wage classification to the satisfaction of his foreman. In all such cases the foreman and the Union Com- (6) mitteeman shall be consulted prior to the granting of such increases.

Effective 3 May 1941, the Company granted five cents an hour increase to every employee covered by this 12 June 1941 Agreement in lieu of all privileges under the 15 April 1940 Agreement.

Retroactive to 9 August 1941, in lieu of all privileges under the second and third paragraphs of Section 3 of this 12 June 1941 Agreement (which paragraphs are hereby cancelled), the Company grants thirteen cents an hour increase to every employee who was on 11 October 1941 receiving more than 65 cents an hour.

## (Board's Exhibit No. 3—Continued)

When ordered by an employee, the Company will deduct, either weekly or monthly at its election, the dues prescribed by the Union, the maximums of which are designated hereinbelow, from the employee's pay and remit this amount to the Union. These deductions for dues will start within 10 days after the receipt by the Company of the employee's order and will stop with the termination of this Agreement, or within the week prior to the week in which the employee is terminated.

In no event shall the dues exceed 50 cents a week for journeymen mechanics and specialists (employees receiving a base pay of 80 cents an hour and over) and 35 cents a week for production workers and helpers (employees receiving a base pay of 79 cents an hour and less). No deduction shall be made in any week for dues if the employee's earnings, after deducting social security taxes, group insurance premiums, and amounts due to the Company for tool sales, advances, etc., is insufficient to cover the full weekly deduction for such dues.

4. Hours: The work week shall consist of forty hours of five consecutive days, from Monday through (7) Friday, except for custodial employees such as maintenance men, guards, and janitors, and accounting and confidential clerks, when shifts are being rotated. With the exception of such employees, eight hours shall be worked within nine consecutive hours.

5. Overtime Pay: Work after eight hours on any shift shall be considered overtime, payable at



## (Board's Exhibit No. 3—Continued)

time and one-half. After three hours overtime on any one day and eight hours overtime on Saturday (payable at time and one-half), double time shall be paid. With the exception of custodial employees, work on the seventh consecutive day shall be paid for at double time.

6. Shift Rotations: Custodial employees who may be involved in both Saturday and Sunday work, may be rotated every fifth week after they have completed five consecutive days and have one day's rest thereafter without overtime penalty for the seventh day.

7. Recognized Holidays: The following shall be considered double time holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

8. Representation: For each 500 employees, the Union may appoint one member to its shop committee, and a committee chairman for each shift. With the approval of the Union, each Committeeman may select one steward for each 175 employees or major fraction thereof. The Union shall furnish the Company an accurate list of all committeemen and stewards and keep the Company informed as to all changes therein.

9. Complaints and Grievances: The Company desires that unfairness to its employees shall not exist, and that complaints shall be settled whenever (8) possible with its foremen in the shop or de-



## (Board's Exhibit No. 3—Continued)

partment where the complaint or grievance originates.

Whenever a complaint or grievance develops in any shop or department of the Company the following steps shall be taken:

(1) The complainant shall first discuss his case with his foreman in charge in an effort to arrive amicably at a mutually satisfactory settlement. In case this effort fails:

(2) The complainant shall contact his shop chairman or shop committeeman; and they in turn shall together contact the foreman in a further effort to settle the issues involved. In all cases where this effort fails to bring mutual agreement:

(3) The employee and his committeeman or chairman shall immediately reduce to writing on a grievance form the complaint or grievance.

This grievance form is to be filled out in quadruplicate; one copy to remain with the foreman of the department where the complainant is employed; one copy to be retained by the shop committeeman or chairman; one copy to be forwarded to the general offices of the Union where it will be turned over to the Business Representative charged with the responsibility of servicing the department or shop of the employee involved; and the fourth copy shall be forwarded by the foreman to the Labor Relations Department.

Within twenty-four (24) hours after this grievance form has been filed with the foreman, the shop committeeman or chairman and the employee in-

## (Board's Exhibit No. 3—Continued)

volved shall meet with the Labor Relations Director or his authorized representative. If the parties above find themselves unable to agree on a settlement within forty-eight (48) hours after the case was referred to them: (9)

(4) Then and in that event the case shall be referred to the Labor Relations Committee of the Company, and the Union Committee composed of the Business Representative and the shop committeeman or chairman of the shop or department involved. These two committees shall meet; and within five days after the case was referred to them, hand down their final decision on the grievance before them. If these two committees are unable to agree:

(5) The case shall be referred to arbitration as provided for in Article 23 of this agreement.

10. Discharge: When requested in writing by a discharged employee, the Company, following present practice, will furnish either the employee or the Union with the reason why such employee was discharged.

11. Regulations: The Union and the Company agree that the regulations set forth in the Company's Rule Book, attached to and made a part of this agreement, are necessary for the efficient operation of the Company's plant, and that infraction of any rule constitutes cause for discharge or disciplinary action.

12. Intimidation and Discrimination: The Company agrees not to intimidate nor in any way discriminate against any employee because of Union

## (Board's Exhibit No. 3—Continued)

activities; the Union agrees not to intimidate nor in any way discriminate against any employee not belonging to the Union.

13. **Calls and Reporting:** If a man is called other than for his regular shift or continuous extension thereof, he shall receive two hours' minimum pay.

14. **Bulletin Board:** The Company will locate and supply on its premises sufficient bulletin (10) boards for the use of the Union. The Union agrees to sign all its notices (which notices shall not malign the Company or employees), and to submit all notices to the management for approval. The Company agrees to post promptly each approved notice on all bulletin boards.

15. **Union Activities on Company Property:** The Union agrees not to distribute literature, handbills, or printed matter on Company property.

16. **Seniority:** The Company, in accordance with past practice, will continue in lay-offs to recognize seniority where ability, production, and conduct have been equal.

17. **Leaves of Absence With Pay:** Each hourly-paid employee who has completed one year of continuous service with the Company shall be granted annually a leave of absence with pay of 12 eight-hour work days (96 hours) which may be used by the employee as vacation, sick leave, or time-off with pay on recognized holidays that fall on regular working days. An employee forfeits his time-off with pay if absent ten regular working days during the twelve-month period unless such absence

## (Board's Exhibit No. 3—Continued)

is due to an authorized leave, physical disability, serious illness or death in the employee's immediate family, or compulsory jury, military, or naval, all subject to verification by the Company. Leaves with pay shall not be cumulative and must be extinguished within twelve months after the period of eligibility begins. The Company may grant an employee pay in lieu of time-off with pay. This pay shall be computed at the employee's regular hourly rate. The management will attempt to grant vacations at times requested. However, the Company may allocate certain times at which paid vacations must be taken. The employee must indicate in writing before the expiration of the pay week whether he desires to receive pay for the time lost during that week. (11) Employees shall not be paid for fractional parts of a day. Termination of employment will automatically cancel the right of an employee to receive time-off with pay or to be recompensed therefor.

**Leaves of Absence Without Pay:** In pursuance of the Company's regularly established practice, leaves of absence without pay and without loss of seniority will be granted to employees for a length of time commensurate with the reason for such absence. The granting or disallowance of requests for leaves of absence shall be left entirely to the management of the Company.

Not more than six employees of the Company selected by the Union to do work for the Union which takes them away from their regular employment



## (Board's Exhibit No. 3—Continued)

shall be granted leaves of absence without pay of not more than 30 working days in each calendar year.

Leaves of absence with seniority right unimpaired shall be granted to full-time officers of the Union, provided such officers have had 12 months of prior continuous employment with the Company.

19. Transfers: Where an employee is transferred from one department to another and the work performed is similar and the skill required the same, his rate will not be changed.

20. Efficiency and Production: The Union agrees to submit in writing from time to time recommendations for improving the efficiency and increasing the production of the plant.

21. Training Plan: The Company will immediately inaugurate a study of the feasibility of establishing a training or apprentice plan either as a company function or in collaboration with Federal and State educational authorities which will enable its employees to increase their skill. (12)

22. Military Service: If any employee subject to this agreement shall enter military service by conscription under the Selective Service Training Act of 1940, and the Active Service Act, such employee shall be granted a leave of absence for the duration of service without loss of seniority rights. If the United States becomes actively engaged in war, any employee covered by this agreement who enters the military service either by conscription or voluntarily, shall be granted a leave of absence without loss



## (Board's Exhibit No. 3—Continued)

of seniority for the duration of his military service during the war. Upon termination of such military service, if such employees shall request re-employment and if production warrants such re-employment and if the employees are physically able to do the work available, the Company will re-employ such persons in preference to all other persons in their occupations with less seniority.

23. Arbitration: In order to protect the National Defense Program and the continuity of work for the United States Government, it is agreed that if any of the terms, provisions, or rates covered by this agreement are not settled satisfactorily by the parties hereto, the matter in dispute shall be referred to arbitration as follows:

The Company shall designate 2 representatives, and in like manner the Union shall designate 2 representatives. Said 4 representatives shall meet within 3 days after notification, and in the event that satisfactory settlement is not reached within 5 days after such notification, the United States National Defense Mediation Board shall be requested to designate a fifth member to the arbitration board. The decision of the majority of this arbitration board of 5 members shall be final and binding upon the parties hereto.

The Union agrees that there shall be no strike or slow-down, and the Company agrees that there shall (13) be no shut-down or lock-out, while matters are being considered under this section.

24. Boycott: The Union agrees that it will not

## (Board's Exhibit No. 3—Continued)

permit its members to refuse to perform any work or handle materials or machinery or equipment because of the sources of supply or the Union affiliation or non-affiliation of the labor engaged in such supply or at such work.

25. Term: This agreement shall run two years from its date or for the period of the Unlimited National Emergency proclaimed by the President of the United States on 27 May 1941, whichever is the longer, or until amended by agreement after 15-day notice by either party. This agreement supersedes the agreement of 15 April 1940, and all previous agreements, whether written or oral, between the parties hereto.

CONSOLIDATED AIRCRAFT  
CORPORATION,

R. H. FLEET,

President.

INTERNATIONAL ASSOCIA-  
TION OF MACHINISTS:

C. L. BENTLEY,

Grand Lodge Representative.

INTERNATIONAL ASSOCIA-  
TION OF MACHINISTS,  
AIRCRAFT LODGE, No. 1125:

WALTER J. CHUDLEIGH,

Pres.

R. J. BRAGG,

DON WILKERSON,

JOSEPH J. BLAKE,

N. R. PYEATT. (14)

(Board's Exhibit No. 3—Continued)

Sections 2 and 3 hereinabove show the higher pay-rates negotiated under the National Defense Mediation Board and agreed to 18 October 1941.

CONSOLIDATED AIRCRAFT CORPORATION,

R. H. FLEET,

President.

W. J. CHUDLEIGH,

President I. A. M. Lodge 1125.

R. B. FELTON,

Business Representative, District  
22.

GEO. CASTLEMEN,

Vice-President International Assoc. of Machinists.

Section No. 3, first paragraph, and Section No. 9 of 12 June 1941 Agreement amended 5 March, 1942.

CONSOLIDATED AIRCRAFT CORPORATION,

H. WOODHEAD,

President.

INTERNATIONAL ASSOCIATION OF MACHINISTS,  
AIRCRAFT LODGE No. 1125.

ROY M. BROWN,

Grand Lodge Representative,  
I. A. of M.

J. E. BRUCE,

Business Representative,  
Lodge 1125.

(Board's Exhibit No. 3—Continued)

L. A. PERRY,

Business Representative,  
Lodge 1125.

K. G. PHILLIPS,

Business Representative,  
Lodge 1125.

D. D. WILKERSON,

Business Representative,  
Lodge 1125 (15)

Aeronautical

Mechanics

Lodge No. 1125

Business Offices

and

Meeting Hall

1054 Third Avenue

San Diego, California

Meetings

Night Shift—

1st & 3rd Mondays at 10:00 a. m.

Day Shift—

1st & 3rd Tuesdays at 7:30 p. m.

(After First Monday)

Meetings Are Subject to Change

(Union Label) 49

## ALBERT LEONARD CONDON

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined as testified as follows:

## Direct Examination

Q. (By Mr. Harrington): What is your name?

A. Albert Leonard Condon.

Q. And your address?

A. 4172 First Avenue, San Diego.

Q. Are you employed at the Consolidated Aircraft Company?      A. Yes, I am.

Q. How long have you been employed by them?

A. One year and 11 months.

Q. What work do you perform?

A. Payroll division of the accounting department.

Q. Have you held any other jobs there?

A. Yes, in the timekeeping department.

Q. When were you in there? For what period of time?

A. For about a year and six months. [30]

Q. Are you a union member?

A. Yes, I am.

Q. When did you join the union?

A. About a year and a half ago.

Q. That is the union involved in this case: Aircraft Lodge No. 1125?      A. Yes.

Q. Have you held any position in the union?

A. Committeeman.

Q. When did you hold that position?

A. I was appointed temporary committeeman



(Testimony of Albert Leonard Condon.)

and held that for about four days beginning with about April 24, 1942.

Q. Who appointed you temporary committeeman? A. Mr. Ken Phillips.

Q. What is his title?

A. Business agent.

Q. Of the union? A. For the union.

Q. As union committeeman, what were your duties?

A. Well, to be go between for the personnel in the department and Mr. Shanahan, who is head of the department.

Q. Did you ever take up any grievances while *you acting* as committeeman? A. One.

Q. Who did you take that grievance up with? [31]

A. Mr. Shanahan.

Q. About when did this take place?

A. This was about the 28th of April, 1942.

Q. Where did you take it up?

A. Mr. Shanahan's office.

Q. Who was present there?

A. Just the two of us.

Q. What was the grievance about?

A. Hardman had been asked to transfer from the department. He wanted to be reviewed, receive an increase before he was transferred out of the department.

Q. Did he give any reason why he wanted a review?

A. Yes. He felt the timekeeping department

(Testimony of Albert Leonard Condon.)

had had the benefits of his services for the past year, and he thought they should give him the increase and not the department that he was transferring into, because he would be losing seniority also.

Q. You say you talked this grievance over with Mr. Shanahan?      A. Yes, I did.

Q. What occurred during the discussion?

A. Mr. Shanahan stated that he had spoken to Mr. Hardman about it, and that so far as he was concerned, the whole thing was closed, and he asked him if he would accept a grievance, and he said he would, but that he would cancel [32] Mr. Hardman's transfer from the department and recommend to the personnel department that he be terminated immediately.

Q. Was there anything else said?

A. Just as I was about to leave, he said anyone that tried to do anything about the Hardman case was liable to get into trouble.

Q. Did he explain what he meant by getting into trouble?      A. No.

Q. And that was the only grievance taken up?

A. Yes, it was.

Q. What department are you working in now?

A. Payroll division, accounting department.

Q. You were transferred, in other words?

A. Yes.

Q. Had you requested a transfer?

A. About two months before, in February.

Q. That was before you were a union committee-man?      A. Yes.

(Testimony of Albert Leonard Condon.)

Q. So that had nothing to do with your transfer?

A. Not a thing.

### Cross Examination

Q. (By Mr. Riggs): What was the name of the man whom you discussed with Mr. Shanahan?

A. L. D. Hardman.

Q. Mr. Hardman, as I understand it, was going to be [33] transferred to another department and he wanted to have his wage reviewed and come before the semi-annual wage review board before he was transferred?

A. Yes, because he had been told to transfer out of the department.

Q. And you took it up with Mr. Shanahan and Mr. Shanahan said that his mind was made up, he wasn't going to do it, or something like that?

A. He said he had discussed it, and so far as he was concerned, it had been settled.

Q. You, as shop committeeman, were familiar with the agreement with the Lodge No. 1125?

A. To a certain extent, yes.

Q. You knew it provided machinery for grievances?

A. Yes.

Q. You knew all about that, didn't you?

A. Yes.

Q. And that the company had blanks upon which grievances would be prepared, and that it was that each procedure set forth in Paragraph 9 of the Complaint, in which the grievance form was to be filled out and the copy sent to the foreman, one retained by the shop committeeman, and within 24 hours after

(Testimony of Albert Leonard Condon.)

the grievance form was signed, the shop committee-man would meet with the Labor Relations Director, and if they were unable to agree within 48 hours, there was other [34] machinery provided for review. You knew all that?           A. Yes.

Q. You didn't do anything about Hardman at all?

A. When I spoke to Hardman about that, he decided not to put in a grievance, under the threat of being terminated.

Q. You told him, Mr. Hardman, he was about to be terminated?

A. Mr. Shanahan told it to me, and I told it to Mr. Hardman.

Q. That's the only occasion you have had to talk to Mr. Shanahan about union matters or union men, is it?           A. That's right.

Q. Neither you or Mr. Hardman thought this was important enough to use the technical machinery provided for, with reference to grievances, isn't that so?

Mr. Ryan: Read the question.

(The question was read.)

Mr. Ryan: I object to that.

Trial Examiner Hektoen: Why?

Mr. Ryan: It's a hypothetical question anyway, what he thought about it.

Trial Examiner Hektoen: Read the question again.

(The question was read.)

Trial Examiner Hektoen: I will let him answer that. You didn't, in any event? Is that right?

(Testimony of Albert Leonard Condon.)

The Witness: I did what Mr. Hardman had decided. [35]

Q. (By Mr. Riggs): The fact is that there was no grievance filed by you and none filed by Mr. Hardman? A. That is right.

Q. Mr. Hardman is still in the employ of the company at the same pay? A. Yes.

Q. You are still in the employ of the company at the same pay, transferred to another department of your own accord? A. That is right.

Mr. Riggs: That is all.

#### Redirect Examination

Q. (By Mr. Harrington): When were you transferred from the timekeeping department?

A. I was transferred on the first day of May.

Q. On the first of May? A. Yes.

Q. I believe you said you were appointed temporary committeeman April 24?

A. About that time, yes.

Q. As to the number of grievances you took up, did you take up others besides this grievance?

A. No, that was the only one, the only occasion that ever arose.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: That is all, Mr. Condon. [36]

(Witness excused.)

Trial Examiner Condon: We will have a short recess now.

(Short recess.) [37]



## After Recess

Trial Examiner Hektoen: We will be in order, please.

Mr. Harrington: Mr. Williamson.

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## OLIVER HENRY WILLIAMSON,

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

## Direct Examination

Q. (By Mr. Harrington) What is your address?

A. I live on Stratford Drive, Encinitas.

Q. Are you an employee of the Consolidated?

A. Yes, sir; I am. However at the present time I am on temporary leave of absence doing some work for the 1125 Lodge here, Aeronautical Mechanics.

Q. That is the union involved in these proceedings?

A. Yes, sir.

Q. When were you first employed by the company?

A. On the 20th of June in 1940.

Q. How long did you work for the company?

A. I worked until about the 18th of April in 1941.

Q. And then what happened?

A. I quit at that time because I had fair assurance from the procurement officer of the Navy that they would take me in the Navy as a warrant machinist. However, they later disapproved my

(Testimony of Oliver Henry Williamson.)

application because I was unable to meet [38] physical requirements.

Q. What did you do then?

A. Then I returned to work at Consolidated on the 18th of September, 1941.

Q. How long did you work for Consolidated?

A. On the 14th of April, 1942.

Q. What happened at that time?

A. On the 14th of April, 1942 I was discharged—fired.

Q. Were you a member of the union?

A. I was.

Q. And are you a member at the present time?

A. Yes, I am.

Q. How long have you been a member of the union?

A. I first joined the union, I think it was in the month of September in 1940.

Q. Did you hold any union position?

A. I was not an officer of the Lodge, but I was elected shop committeeman in my department I was shop committeeman.

Q. When were you committeeman?

A. I was elected committeeman on the 1st of March. They had a general election in the plant for committeeman in all departments.

Q. And how long were you a committeeman?

A. Oh, I was committeeman for about six weeks.

Trial Examiner Hektoen: The first of March of this year? [39]

The Witness: Yes, sir; 1942.

(Testimony of Oliver Henry Williamson.)

Q. (By Mr. Harrington) Do you know Walter Brown? A. I do, sir.

Q. Is he in the employ of the company?

A. He was until the 14th of April.

Q. Do you know how long he was employed?

A. I think Walter Brown came to work at the plant about the middle of November, 1941.

Q. Where did he work?

A. He worked in Building No. 1, in the jigs and fixtures department on the second shift.

Q. Did you work near Brown?

A. Yes; Brown and I were members of the same gang and under the same foreman.

Q. You say he ceased working on what date?

A. I think it was the 14th of April, 1942. I am quite positive of the date.

Q. Are you acquainted with the circumstances of his leaving his employment?

A. Yes, sir; I am.

Q. Will you relate them to us?

A. Well, it was at the lunch period between 7:30 and 8:00 o'clock on the swing shift, and we were eating our lunch between building No. 1 and building No. 2.

Q. Who were present then? [40]

A. I think Willis Sowers and James Glosson and Walter Brown and myself.

Q. Who were those persons?

A. They were members of our gang. Glosson was my working partner and Sowers also worked in the same gang.

(Testimony of Oliver Henry Williamson.)

Q. And Brown also was employed in your group?

A. Yes, sir; Brown was one of our group, yes.

Q. Proceed.

A. Well, Brown told me that Mr. Hangen had called him up to his office and told him he couldn't work with Dobbs any more.

Q. Who is Hangen?

A. Mr. Hangen—I will clarify that statement. Mr. Hangen was our foreman. He was foreman of the jig builders on the second shift, building No. 1 at that time. Milton Hangen is his first name. There were two foremen on the night shift of the jig and fixture department. Milton Hangen and Richard Strumpf.

Q. Proceed.

A. Well, Brown told me, as committeeman, because it was my duty to know what was going on amongst the members who were employees in the plant, that Mr. Hangen had called him up there and told him he couldn't work with Dobbs any more; that he would have to work with Fred Ewert.

Q. What was Ewert's position? [41]

A. Ewert was a lead man in jigs and fixtures under Hangen on the second shift. And Brown told Hangen that there would be no use of him trying to work for Ewert, that Ewert couldn't talk English plain enough for him to understand him and that it would be impossible for him to understand Ewert's orders or conversations, so if he

(Testimony of Oliver Henry Williamson.)

made it that he had to work for Ewert, why, to write out his time; that he wanted to quit. Hangen told Brown, and this is according to what Brown told me—I am repeating Brown's story, Hangen told Brown that that would be O. K., that he could quit; that he would have him checked out at 11:00 o'clock that night.

Q. What time did the lunch period end?

A. The lunch period ended at 8:00 o'clock.

Q. And what happened after that?

A. Oh, we went back to work and started working on the fixtures we were building and it was somewhere between 30 minutes and 45 minutes and a policeman came up behind Brown and told Brown to pack up his tools, that he was going out.

Q. By "policeman" do you mean a plant policeman?

A. Yes, a plant guard. They say "policeman" on their badges. I don't know their status.

Q. Did you see the policeman come up to Brown?

A. Yes, sir; I did. I was working in such a position about 40 feet away from him that I couldn't help but notice it.

Q. Did you hear the conversation? [42]

A. I couldn't overhear the conversation but I went up to Brown—I dropped my work at that time and I went up to Brown and then I says, "What has happened?" He said, "Well, this policeman come and told me to pack up my tools—that he was taking me out." I says, "Well, didn't



(Testimony of Oliver Henry Williamson.)

you tell me that you had quit?" He said, "Yes." I said, "Well, when people quit they go out with the clerk." I says, "when a policeman comes up behind them and tells them to pack up they are fired." And he says, "Yes," he said that he had been told that he was fired. And I says, "Are you honest with me? Have you told me the truth that you quit and that Hangen agreed to check you out at 11:00 o'clock as quit," and he said, "Yes, that is the truth."

Q. At that time you were union committeeman?

A. Yes, sir; I was.

Q. Did you do anything about that?

A. Yes. I went up to Mr. Hangen's office and I asked the clerk up there, a young lady named Ellen Tullinen, I said, "Miss Tullinen, would you please try to get ahold of Mr. Hangen for me; it is necessary that I see him at once."

Q. Did she do so?

A. She called around to building No. 2 and building No. 3 and the various places where he might have been found and she was unable to get him.

Q. What happened then? [43]

A. Well, I says, "Keep on trying to get him because I want to find out what is happening here; I want Mr. Brown to appear in front of Mr. Hangen and I want them both to tell me what happened so that I will know what went on, whether Brown quit or whether he is being fired."

(Testimony of Oliver Henry Williamson.)

Q. What happened then?

A. Well, she couldn't find him—she continued to try to call him and she couldn't get him and Jim Eastin, a man who was assistant foreman down in the next building, in building No. 2, he come up and he says, "Now, just forget about this. You go on back to work." And I said, "No," I said that it was my duty to find out what was going on and I had seen Ralph Hall run out of there the week before and I had sat idly by and done nothing about it, and I was getting diligent about it, or, negligent, I mean, in my duty as a committeeman for seeing the boys in my department run out without any cause and me not finding out why they were going and if termination slips were such as they were supposed to be.

Q. Mr. Williamson, what happened after you talked to Eastin?

A. Well, I stayed there waiting for Hangen to come and while I was waiting Mr. Hank Legal came out.

Q. What is his position?

A. At that time Mr. Legal was superintendent of the night shift in the parts plant. I believe that was his title. [44]

Q. Did you have any conversation with Mr. Legal?

A. Yes. He came up to me in a very brusque and aggressive manner and he says, "You are one of these damned union agitators." He said, "You

(Testimony of Oliver Henry Williamson.)

better be careful or you will know what I am going to do to you."

Q. Then what happened?

A. I was just about to answer Mr. Legal when a policeman, or a plant guard—maybe I am wrong in the classification, came up—a guard who was never on duty in our building and who I had never seen before, and he motioned, "Come here." He stood a little way away from Legal and myself and he said, "Come here." Legal stepped over to him and I started to step over to him and he said, "Damn you, you get over there—get over there." He says, "Get over," and he said, "Get out of the way." And he gave me a dirty look, a very dirty look, so I stayed a good distance away from Mr. Legal and this policeman and Legal continued to have a conversation for, I would say, somewhere from three to five minutes.

Q. Were you able to overhear the conversation?

A. No, I wasn't. I stayed far enough away so I couldn't. I didn't want to step out of line or do anything to infuriate the plant police.

Q. What happened after that conversation?

A. When he came back I says, "You are wrong about me being an agitator." [45]

Q. Who did you say that to?

A. Mr. Legal. And I says, "I don't want anything to happen here that will bring discredit to my organization." I says, "We can forget the fact that I am a committeeman. I have got another matter that I would like to speak to you

(Testimony of Oliver Henry Williamson.)

about." I says, "I will take off my committee-man's badge and put it in my pocket and go over and ring the time clock out and I would like to have a talk with you in your office in the presence of a representative of the Federal Bureau of Investigation," and I said, "I am willing to do that on my own time."

Q. Did Mr. Legal make any answer to that?

A. Yes. Mr. Legal appeared at that time—it appeared at that time that he and I were going to have a pleasant conversation and he said it wouldn't be necessary for me to ring out my card.

Q. What department were you working in at that time?

A. I was working in Department 65—jigs and fixtures. The number has since been changed to 96.

Q. What happened then after your conversation with Legal?

A. Well, he and I were standing—you see Hangen's office was on top of a tool crib and a little stairway going up to it and Legal and I were standing at the foot of the stairs and we started to walk from the foot of that stairway out to the administration building. We started down the aisle [46] of building No. 1 from column 21-D. That was always our address when we ordered material or anything—21-D. We started to walk from there down the aisle toward the door, and when we got about halfway to the door Mr. Hangen came in and so Hangen saw me walking down with Legal and he says, "What is this?" and *Hangen* says,

(Testimony of Oliver Henry Williamson.)

"This fellow has been raising the devil," and so Hangen says, "Was it about Brown?" and Legal said, "Yes," that it was about Brown. "Well," he says, "That is all over; Brown is fired and gone." He says, "You can just forget about it and go back to work."

Then the next thing that happened was—I said "I still have a little matter that I would like to discuss with the superintendent about the steady advancement of the German born jig builders, the constant lowering of morale and the lowering of production in the department," and I wanted to discuss that matter.

Q. When you say you wanted to talk with the superintendent, to whom do you refer?

A. Mr. Legal, the man who I was with at that time; he says, "Well, we won't need to talk about that." He says, "I don't think you would have anything to talk about." And he says, "By the way," he says, "What are you mad about the Germans in here for?" He said, "I am German. And you are one too, only you haven't got sense enough to know it."

Q. Did you make any remark then? [47]

A. I said, "Well, I still think I have got something to talk about," and he says, "Well, you are just too damned dumb" he says, "You haven't said a smart thing all night." He said, "I wouldn't give you an interview." He says, "You are too ignorant."



(Testimony of Oliver Henry Williamson.)

Q. Anything else occur during that conversation?

A. Yes. He said to Hangen, he says, "You are going to fire him," and Hangen says, "Well, I don't know, he is a good worker," and Legal says, "Go ahead and fire him and I will back you to the limit."

Q. Was there any further conversation?

A. Not between—Legal separated from Mr. Hangen and myself and I went back with Mr. Hangen to his office where he wrote out a termination slip and then he called a guard to escort me from the plant.

Q. Did anything else occur that night with respect to your discharge?

A. No, nothing else occurred that night except that I was given my termination slip which read, "Discharged, agitator," and he escorted me out to the gate with a plant guard.

Mr. Harrington: Will you mark this paper please for identification?

(Thereupon, the document referred to was marked as Board's Exhibit No. 4 for identification.)

Q. Mr. Williamson, I show you a paper marked Board's Ex- [48] hibit No. 4 for identification. Have you seen that paper before? (Handing paper to witness.)

A. Yes, sir; that is the very paper that I carried with me the night they threw me out.

(Testimony of Oliver Henry Williamson.)

Q. That was the paper that was given to you?

A. Yes, sir (Handing paper to Mr. Riggs).

Mr. Riggs: No objection.

Mr. Harrington: I offer Board's Exhibit No. 4 for identification as Board's Exhibit 4.

Trial Examiner Hektoen: Any objection?

Mr. Riggs: No objection.

Trial Examiner Hektoen: It may be admitted.

(The document heretofore marked as Board's Exhibit No. 4 for identification was received in evidence.)

#### BOARD'S EXHIBIT No. 4

(Cut)

Consolidated Aircraft Corporation  
Lindbergh Field - San Diego, California  
Cable "Consair" P. O. Box 1950  
Service Record of  
Oliver H. Williamson  
Signature

C 1989

This will certify that Oliver H. Williamson was in the employ of this Company as shown below:

In	Classification	Out	Reason
6-20-40	Tool Room— Jig Builder	4-18-41	Quit: Going to old job.
9-18-41	Tool Room— Jig Builder	3- 6-42	Class Change
3- 7-42	Tool Room— Jig Builder— Assembly Metal B	4-14-42	Discharged—Agitator

(Testimony of Oliver Henry Williamson.)

CONSOLIDATED AIRCRAFT  
CORPORATION

J. H. WATERBURY

Personnel Director

SS# 553-20-6361

hfk

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Q. (By Mr. Harrington) Did anything else occur after that night with respect to your discharge?

A. Yes. The next night there was a meeting in Mr. Larimore's office in Plant No. 2.

Q. Who was present at that meeting?

A. (No response.)

Trial Examiner Hektoen: Who is Mr. Larimore?

The Witness: Mr. Larimore was personnel director of Plant No. 2, otherwise called the parts plant.

Well, those present were my business agent, Mr. D. D. Wilkerson, Mr. Roy M. Brown, the Grand Lodge representative, [49] and there was Milton Hangen, my ex-foreman, and there was Jim Eastin and Hank Legal, and Mr. Wiseman, Mr. Herman Wiseman.

Q. (By Mr. Harrington) What was Wiseman's position?

A. Mr. Wiseman—I don't know. He had a title of Public Relations—no, Labor Relations or Per-

(Testimony of Oliver Henry Williamson.)

sonnel Director. Anyway, a job similar to, or maybe in advance of Mr. Larimore's. And then there was Walter Brown and myself.

Q. Is Walter Brown the Brown you referred to as being discharged?

A. Yes. That was Walter Brown, the one I spoke of as telling me he had quit.

Q. The one that you had the conversation with?

A. Yes, sir.

Q. What took place during that meeting in Mr. Larimore's office?

A. At the meeting in Mr. Larimore's office, why, we went over the facts that Walter Brown had told his foreman he wanted to quit and his foreman had agreed to let him quit and it was brought out there that there was a witness who overheard Walter Brown's conversation with his foreman who was willing to testify that Walter Brown had told the truth to me about the matter, and that Mr. Hangen had told a deliberate lie about it.

Q. Who was this witness you referred to? [50]

A. This witness was the clerk whose duty it was to carry on work alongside of Mr. Hangen, who was sitting right next to Mr. Hangen at the time that the conversation went on between Mr. Hangen and Walter Brown.

Q. What was the clerk's name?

A. The clerk's name is the same one that I asked—Tullinen—the same one that I asked to get hold of Mr. Hangen and it transpired that in that meeting that Mr. Wiseman and Mr. Larimore agreed

(Testimony of Oliver Henry Williamson.)

that the company was in error in the dismissal of Walter Brown, and that they took back from Walter Brown the termination slip which read "Discharged, declined to take orders," and furnished him with a service letter saying "Quit."

Q. Did they do that at that meeting?

A. Yes, yes, sir; that was done the next night.

Q. Did you see those service records?

A. Yes, I did.

Mr. Harrington: Will you mark these, please?

(The documents referred to were marked as Board's Exhibits 5-A and 5-B for identification.)

Q. (By Mr. Harrington) I will show you a paper which I have had marked as Board's Exhibit 5-A for identification.

A. Yes, sir.

Q. Have you seen that?

A. Yes, sir; that is right. [51]

Q. Where did you see it?

A. I saw it that night in the office of Mr. Larimore in the Parts Plant. That would be the 15th of April.

Q. I show you a paper I have had marked as Board's Exhibit 5-B for identification.

A. That is right.

Q. Have you seen that before?

A. Yes, sir; that is the transaction that was agreed on at the meeting that was held after the termination of Walter Brown and myself.

(Document handed to Mr. Riggs.)



(Testimony of Oliver Henry Williamson.)

Mr. Riggs: No objection.

Mr. Harrington: I offer Board's Exhibits 5-A for identification and 5-B for identification in evidence as Board's Exhibits 5-A and 5-B.

Trial Examiner Hektoen: That may be admitted.

(The documents heretofore marked as Board's Exhibits 5-A and 5-B for identification, were received in evidence.)

# BOARD'S EXHIBIT No. 5-A

(Cut)	(Copy)	No. 16
Consolidated Aircraft Corporation		
Lindbergh Field	San Diego California	
Cable "Consair"	P. O. Box 1950	
Service Record of		

-----  
Signature

This will certify that Walter Brown SS #234-03-6132 was in the employ of this Company as shown below:

In	Classification	Out	Reason
11-25-41	Tool Room— Helper General	4-14-42	Discharged—Declined to take orders.

Prospective employers may secure additional information regarding former employees by addressing inquiries to the Personnel Department of this company, provided that they secure the written permission of the individual concerned beforehand.

Official replies will be signed either by executives of Consolidated Aircraft Corporation or authorized members of the Personnel Department. Letters of

(Testimony of Oliver Henry Williamson.)

recommendation signed by others should be disregarded.

CONSOLIDATED AIRCRAFT  
CORPORATION

/s/ J. H. WATERBURY

Personnel Director

BOARD'S EXHIBIT No. 5-B

(Cut) (Copy) No. 16

Consolidated Aircraft Corporation

Lindbergh Field

San Diego California

Cable "Consair"

P. O. Box 1950

Service Record of

-----  
Signature

This will certify that Walter Brown SS#234-03-6132 was in the employ of this Company as shown below:

In	Classification	Out	Reason
11-25-41	Tool Room— Helper General	4-14-42	Quit

Prospective employers may secure additional information regarding former employees by addressing inquiries to the Personnel Department of this company, provided that they secure the written permission of the individual concerned beforehand.

Official replies will be signed either by executives of Consolidated Aircraft Corporation or authorized members of the Personnel Department. Letters of

(Testimony of Oliver Henry Williamson.)

recommendation signed by others should be disregarded.

CONSOLIDATED AIRCRAFT  
CORPORATION

/s/ J. H. WATERBURY

Personnel Director

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Mr. Harrington: Incidentally, Mr. Examiner, those are copies that were furnished me by the company and we have agreed that they may be received and have the same effect as though they were the originals.

Trial Examiner Hektoen: Does counsel agree with that?

Mr. Riggs: Yes. [52]

Trial Examiner Hektoen: Very good. They may be received.

Mr. Thomas: May I see them?

(Exhibits handed to Mr. Thomas.)

Q (By Mr. Harrington) What else occurred at that meeting?

A. Well, it was suggested by my business agent and the Grand Lodge representative that inasmuch as this had been brought to light that Walter Brown had been handled in an improper manner that I be returned to work and Mr. Wiseman said that he had no objection but he would first have to ask a couple of questions of my foreman, Mr. Hangen.

He asked those questions and in substance here

(Testimony of Oliver Henry Williamson.)

is what they were: If I was a competent jig builder and if I was a good producer and performed my work in a proper manner. Mr. Hangen said, "Yes," that I was a competent jig builder and I was a good producer and it was brought out at that time that not one month before that I had been given a 12 cent an hour merit raise.

He then further asked if it was true that I did organizing on the company's time or that I stepped out of line as a committeeman or was overactive or officious in my duties as a committeeman, and Mr. Hangen said, "No," that that wasn't so. At that time I believe it was Mr. Roy Brown who suggested that as long as that had been brought out that I go to work in the morning, and Mr. Wiseman said that he would have to [53] hold back 24 hours before giving his answer.

Q. Did anything else occur at that meeting?

A. No, I can't recall anything.

Q. Were you reinstated by the company?

A. Yes, I was.

Q. When were you reinstated?

A. I was reinstated either on the 30th of April or the 1st of May.

Q. Were you reinstated to your old position?

A. I was, yes, sir.

Q. Did you suffer any loss of seniority?

A. No. My seniority was held.

Q. You have stated that on your service record the reason given for your dismissal was "Discharged, agitator."

(Testimony of Oliver Henry Williamson.)

A. Yes, sir; that was and when I was sent to the employment office to be re-photographed and re-inducted into the service of the company, they pulled out that service record and made an erasure where it was "Discharged, agitator" and wrote "Disciplinary layoff, no pay."

Q. Did you see the service record?

A. Yes, I did.

Q. At that time?                      A. Yes, I did.

Mr. Harrington: Will you please mark this, Mr. Reporter? [54]

(The document referred to was marked as Board's Exhibit 6 for identification.)

Q. (By Mr. Harrington) I show you a sheet of paper, Mr. Williamson, that I have had marked as Board's Exhibit 6 for identification. Have you seen this paper before (handing exhibit to the witness)?                      A. Yes.

Q. Where did you see it?

A. Well, I saw it in two places. I saw it in the employment office where I went to be reinstated, and I saw it again in the office of my general foreman, Mr. R. S. Watt.

Q. This is the paper you have been referring to?

A. Yes, that is it.

Mr. Harrington: Is there any objection?

Mr. Riggs: It is all right.

Mr. Harrington: I offer Board's Exhibit 6 for identification in evidence as Board's Exhibit 6.

This letter, Mr. Examiner, is also a copy of that



(Testimony of Oliver Henry Williamson.)  
counsel for the company and I have agreed may be  
introduced.

Trial Examiner Hektoen: There is no objection,  
Mr. Riggs?

Mr. Riggs: No objection.

Trial Examiner Hektoen: It may be admitted.

(Thereupon the document heretofore marked  
for identification as Board's Exhibit No. 6 was  
received in evidence.) [55]

(Testimony of Oliver Henry Williamson.)

## BOARD'S EXHIBIT No. 6

Duplicate

EMPLOYMENT RECORD  
Consolidated Aircraft Corporation  
San Diego, Calif.Name—Oliver Henry Williamson  
First Middle LastAddress—2470 San Diego Ave., San Diego  
Address—2797 San Diego Ave., N. San Diego, Cal.  
Address—N.E. Corner Stratford Dr. & Melba St., 6Phone Address  
Phone W 4136 Address  
—Encinitas AddressPhone  
Phone  
Phone

Date of Birth—12-24-04 Age—35 Date when 65—1969 Height 5'6" Weight 195 lbs. Hair Brown Eyes Brown  
Place of Birth Portland State Oregon Country U.S.A. Nationality American  
Citizen? Yes x No Proof Birth Certificate; born Portland, Oregon Port of Entry  
Date 1st Papers Date 2nd Papers Number Where Issued Date of Entry  
Male x Female Single Married x Widowed Divorced No. Dependent Children Parents  
Other Dependents Wife  
Owns own home Rents x Lives with Parents Lives with other relatives Rooms Room and Board  
How long in this State 18 months In what Counties Los Angeles S.S. 553-20-6361  
Fraternal affiliations Union affiliations  
Church Contract for hire made in State of Calif. Work done in State of Calif.  
Work done in what Dist. S.D. Reg. with Pub. Emp. Office In what District S.D. Certificate No.

## EDUCATIONAL HISTORY

Grade Sch. Kerns City Portland State Oregon Graduate Yes  
High Sch. Washington City Portland State Oregon Graduate Yes  
Special Courses University of Oregon Extension Course—Mechanical Engineering  
College City State Graduate  
Special Courses State Graduate  
Trade Sch. City State Graduate  
Special Courses State Graduate

## PREVIOUS EMPLOYMENT HISTORY

Employer	Address	Position	From	To	Rate	Why Left
Melody Musie	Longview, Washington	Ser. Mech. Coin Mach.	4-12-36	5-20-40	.75	Wanted start Aircraft
Professional Wrestling			1932	1936		
Harvey S. Bissel	La Cresenta, Calif.	Chief Eng. Yacht	8-4-31	9-5-32	\$175 mo.	Cruise ended
Standard Dredging Co.	San Pedro, Calif.	Dredgeman	4-10-31	8-1-31	.67	Project completed
Bethlehem Ship Building	Terminal Island, Calif.	Machinist	1-15-31	4-5-31	\$.77½	Work ran out
Pacific Bridge Co.	Portland, Oregon	Steam Eng.	7-18-25	9-24-30	\$1.00	Contracts completed
New Libby McNeil & Libby	Wallawalla, Washington	Maint. Meht.	6-13-41	7-26-41	.80 hr	Seasonal

## CONSOLIDATED AIRCRAFT EMPLOYMENT HISTORY

Date Started	Department	Clock No.	Position	Type of Work	Rate	Class	Terminated	Remarks
6-20-40	Tool	6229	Jig Builder	Manual	.65	404143	9-20-40	Rate adjustment
9-21-40	Tool	6229	Jig Builder	Manual	.70	404143	1-3-41	Rate review & clock No. chg.
1-4-41	Tool	15-4180	Jig Builder	Manual	.75	154143	4-18-41	Quit—going to old job M.18
ERB 9-18-41	Tool	15-4554	Jig Builder	Manual	.83N	154143	10-10-41	Trans. to P. P.
IVH 10-11-41	Tool	65-4311	Jig Builder	Manual	.83N	654143	10-24-41	Labor Agreement
B TL 10-25-41	Tool	65-4311	Jig Builder	Manual	.96N	654143	3-6-42	Rate & Class Change
MP 3-7-42	Tool	65-4311	Jig Bldr—Assy Mt B	M	1.08N	653482	4-14-42	Disciplinary Layoff—2 wks without pay AG
AG 5-1-42	Tool Room	65-4351	Jig Bldr—Assy Mt. B	M	1.00	653482	5-15-42	Rate Review
5-16-42	Tool Room	65-4351	Jig Bldr—Assy Mt. B	M	1.15	653482		

Supervisor of Personnel

Foreman

Duplicate

Employees Signature

[Printer's Note]: Matter in italic indicates typing in red ink.

(Testimony of Oliver Henry Williamson.)

## Board's Exhibit No. 6—(Continued)

(Reverse Side)

## REMARKS

6-19-40 Fingerprints taken  
 ReFingerprinted 9-16-41 ERB  
 mhp Defense Housing Inquiry 12-29-41  
 AG No Loss of Seniority pay-off 4-14-42  
 Rephotographed 4-30-1942

Relationship  
 to Employer None  
 Name of Relatives

Relatives in  
 Co. Employ? Yes No x  
 Relationship

## ELIGIBILITY FOR BENEFITS

Federal Old Age Insurance? Yes No  
 Ineligible for Benefits—Old Age  
 Calif. Unemployment Insurance? Yes No  
 Unemployment Reason

## Waiting Period

## Probationary Period

## IN CASE OF ACCIDENT NOTIFY

Name	Glenda Thomas Williamson	Address	2470 San Diego Ave.,	Phone
Name		Address	San Diego, Calif.	Phone
Name		Address		Phone
Group Insurance	Yes yes	Policy No.	44474 26871	Amount \$1000.00
Same		BENEFICIARY	Add'l. \$1,000. 1-12-42	
Name	Glenda T. Williamson	Relationship	Wife	Phone
Street No.	<del>2470 San Diego Avenue</del>	City	San Diego	State Calif.
Name	<del>2707</del> Route 1	Relationship	Encinitas	Phone Calif.
Street No.		City		State
Name		Relationship		Phone
Street No.		City		State

## PHYSICAL CONDITION

Right Eye	Left Eye	Wears Glasses	No
Teeth			
Right Ear	Left Ear	Heart	
Right Hand	Left Hand		
Right Arm	Left Arm		
Right Limb	Left Limb		
Right Foot	Left Foot		
Right Lung	No	Truss Worn	No
Hernia	No	Subject to Fits	No
Hemorrhoids	No		
Vaccinations	Yes	Varicocele	

## SERIOUS ILLNESS

None

## OPERATIONS

None

## COMPENSATION RECORD

Date	Company	Cause	Amount
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(Testimony of Oliver Henry Williamson.)

Mr. Harrington: Both sides of this paper I am introducing in evidence.

Trial Examiner Hektoen: Very well.

Q. (By Mr. Harrington): When you were reinstated what shift were you put on?

A. Well, I was put on the day shift.

Q. And what shift had you been on before you were discharged?

A. I had been on the night shift.

Q. Do you know why you were put on the day shift when reinstated?

A. Yes. My general foreman, Mr. R. S. Watt thought that there might be some repercussions from Mr. Hangen about my returning to the shop and he felt that it was for my own best interests to work for Mr. Roland Tyce, who is the foreman or was the foreman in Building No. 1 of the jig builders on the day shift.

I had worked for Mr. Tyce before at other periods for around a year and a half and Mr. Tyce had been well satisfied with my conduct and productive ability and I had a very high personal opinion of Mr. Tyce and we got along very nicely.

I think that Mr. Watt put me on the day shift for my own interests.

Q. You say you think that he put you on for your own interests. Do you know that of your own knowledge?

A. Well, I feel—I feel that the man did it as a move for [56] my own good.



(Testimony of Oliver Henry Williamson.)

Q. When you were put on the day shift do you retain your status as union committeeman?

A. No. The day shift already had a duly elected committeeman and naturally he served, and so there was no place for me to continue as committeeman.

Q. When you were reinstated, did you immediately go right back to work?

A. Well, it took two days to get through the procedure.

Q. What was the procedure?

A. Well, I went first to Mr. Wiseman and he says, "It is all set up for you. You just go back to work." I said, "Should I go home and get my birth certificate—I live out at Encinitas." He said, "No, that won't be necessary." He said, "I will just give you a note to Mr. Pasek, and you go down to the employment office and give this note to Mr. Pasek," and I thanked Mr. Wiseman very kindly for his courteous treatment of me and I went to the employment office and sat there three and a half hours, and finally they called me in and said that they would have to—they couldn't just put me back in; that I would have to go through the procedure of a new-hire, and so when I got through with that, that was a day gone.

Q. What was the procedure of a "new-hire"?

A. Well, you are interviewed. The first thing I went into [57] one of those new-hire interviewers and he sat me down there and started to make out a personnel sheet——

Mr. Riggs: Is this material?

(Testimony of Oliver Henry Williamson.)

Mr. Harrington: Well, it is material but I don't think we have to go into it in such great detail.

The Witness: O. K. Only one point I wanted to bring out.

Q. (By Mr. Harrington) Did you go through the same procedure as a newly hired person?

A. Only except as jig builder "B," he made out the paper as a jig builder "C," and I called his attention to that and he moved me back to "B".

Q. When you were reinstated, were you paid back for the time you were off?

A. No, sir; I was not.

Q. How much time did you lose?

A. 14 working days.

Q. And you didn't receive pay for those 14 days?

A. No, sir.

Q. Do you know where Walter Brown is now?

A. I am not sure, but I have heard he is in the Army.

Mr. Harrington: You may cross examine.

#### Cross Examination

Q. (By Mr. Riggs) After this meeting that took place on April 15th with the men present that you have spoken of [58] there, were some other meetings held—weren't there other meetings held between Mr. Persons and the head of the industrial relations department of the company and Mr. Roy Brown? A. None of which I attended.

Q. Didn't Mr. Roy Brown tell you after those

(Testimony of Oliver Henry Williamson.)

meetings that he was perfectly satisfied with the outcome of your case?      A. No.

Q. What did he tell you?

A. He told me that they were doing the best they could to settle the case and that he thought that I should return to work and then we would continue to pursue the matter until I was paid for the time lost.

Q. Didn't Mr. Wilkerson tell you that they were perfectly satisfied with the outcome of the case?

A. No, sir.

Q. Without any back pay being considered at all?      A. No, sir.

Q. Now, this whole row started by Mr. Brown refusing to work under a lead man named F. W. Ewert, didn't it?

A. Yes, sir; that is right.

Q. Didn't he say he wouldn't work for any "Damned Nazi"?

A. I didn't overhear any conversation between Mr. Brown and Mr. Hangen.

Q. All right, but you have given us a lot of conversation [59] that you said Mr. Brown told you. Didn't he tell you that he said that he wouldn't work under any damned Nazi?

A. He told me that he——

Q. Did he say that or not—— Answer that yes or no, can't you?

A. No is the answer. I can give you a statement as close to it, but that ain't the statement that I will make. The statement that I will make might

(Testimony of Oliver Henry Williamson.)

serve you better if you want it word for word, but the answer to your question is no.

Q. What did he say as to the reason why he said he refused to work under Mr. Ewert?

A. He had been unable to understand Mr. Ewert's conversation; that Mr. Ewert didn't speak enough English for him to be able to understand the man.

Q. Well, what kind of a German did he call him?

A. I don't know what kind of a German he called him. What kind of German do we generally call them in this war?

Q. Coming back again, didn't he say, "This Nazi couldn't speak English and he wouldn't work for him?"

A. I will tell you right now you are barking up the wrong tree because Walter Brown never used the word "Nazi".

Q. Didn't he say he wouldn't work under any German that couldn't speak English?

A. He said, "If you are going to force me to work under Mr. Ewert, write out my time—I want to quit." [60]

Q. Because he was a German and he couldn't speak English correctly and he couldn't understand him; is that right?

A. The man still said he wanted to quit.

Trial Examiner Hektoen: Did he say anything further about that?

The Witness: Not in his conversation with me.

Trial Examiner Hektoen: All right.

(Testimony of Oliver Henry Williamson.)

Q. (By Mr. Riggs) He did not tell you that he said that? A. No.

Q. Now, you know it is the rule in the plant that when any employee quits or is terminated that one of the plant police escorts them to the accounting office where their check is made out and their work terminated? A. No.

Q. You know that is correct, do you not?

A. No.

Q. Haven't you seen policemen take the men out who were terminated?

A. When terminated by discharge, yes; where they were terminated by quitting of their own volition they went out with the clerk on at least 1000 instances that I have seen.

Q. Haven't you seen them in plant No. 1 every afternoon take a number of men who were escorted by policemen to the accounting office whose duty it was to see that they are off of the premises? [61]

A. I am busily engaged in my work of building fixtures, and it is not my duty to run around and ask them if they quit or were fired. [62]

Q. Do you mean to say that when a man quits the foreman has the clerk take him down to the accounting office where he is paid off? A. Yes.

Q. Without the intervention of a guard?

A. That is right.

Q. That is your idea of the procedure?

A. I quit once there, you know.

Q. Mr. Eastin, as Brown said, he wouldn't work



(Testimony of Oliver Henry Williamson.)

for Mr. Ewert, no matter what the reason, and told him to turn his tools in, didn't he?      A. No.

Q. What did he tell him to do?

A. He said: "This fellow is taking you out."

Q. What fellow did he mean?

A. The policeman who came up.

Q. There was a policeman there with Eastin when you first saw Brown with the two of them?

A. When I first looked up from my work and saw Walter Brown at his bench, Eastin wasn't there, just the policeman alongside Brown.

Q. When you saw the policeman taking Brown out, you got hot under the collar, didn't you?

A. That's right, too.

Q. And when you get hot under the collar you express your- [63] self volubly? You are pretty calm this morning, but when you get hot under the collar, don't you talk faster and louder?

Mr. Ryan: I object.

Mr. Riggs: This whole business is a tempest in a teapot, people losing their tempers.

Trial Examiner Hektoen: Did you lose your temper?

The Witness: I don't believe I did.

Trial Examiner Hektoen: Very well.

Q. (By Mr. Riggs) Did you come up immediately and stop and make a speech?

A. No, sir.

Q. Didn't you say the Axis was controlling this blankety-blank plant and our men were being pushed around enough?      A. No.

(Testimony of Oliver Henry Williamson.)

Q. Didn't eight or ten employees hear you making a speech?

A. Eight, nine, ten employees did crowd around, and I told the boys to go back to the benches; that I was serving as a committeeman.

Q. Whatever you told them, there was a little crowd collected when you started to remonstrate about the officer escorting Mr. Brown out?

A. I don't know how you qualify "remonstrate."

Q. I only want the facts. Weren't there eight or nine employees who left their work? [64]

A. Four or five, maybe six, in our gang who worked together, building fixtures, when I went up to see what was wrong. They came over.

Q. Maybe 10?           A. All right, take 10.

Q. Maybe 12?

A. You are getting too high.

Q. We will settle with you for approximately 10 gathered around. What did you say about the Axis controlling the plant? And it being full of damned Germans?

A. I didn't say anything about the Axis controlling the plant.

Q. What did you say about too many damned Germans?

A. I wished to discuss that matter with Mr. Legal in the presence of an officer of the Federal Bureau of Investigation.

Q. Didn't you make the statement so that these 10 men heard you say there were too many damned Germans working in the plant?           A. No, sir.

(Testimony of Oliver Henry Williamson.)

Q. What did you say about the way the plant was being run and the men being pushed around?

A. My prime interest at that time was to find out whether Walter Brown had told me the truth——

Trial Examiner Hektoen: Read the question. [65]

(The question was read.)

Trial Examiner Hektoen: If anything; answer that.

The Witness: I believe that I told Mr. Jim Eastin that I wanted to see Mr. Hangen about this matter, that our morale was steadily going down.

Q. How was your morale going steadily down?

A. How was it?

Q. Yes.

A. Do you want by that a detailed and specific answer on the different things that happened in the plant that weren't productive? I will give you the best answer.

Q. You mentioned all these things at this time, didn't you?      A. What?

Q. You mentioned all these things at this time didn't you?

A. I mentioned only to Eastin that the morale was going down.

Q. Wait a minute. Didn't you say, in various ways the department of jigs and fixtures was under the control of foreign agents, that our good American boys were being gradually pushed out of the picture, and they were taking bread from women and children?

A. No. That's a Hyde Park speech. I told——

Q. Will you stop a minute. [66]

(Testimony of Oliver Henry Williamson.)

The Witness: Then the answer is "No." I am trying to help you. The answer is a plain "no."

Q. (By Mr. Riggs) How long did these remarks of yours take, for you to get them off your chest?

A. I would say somewhere between six and eight seconds.

Q. Not six or eight minutes? A. No.

Q. You didn't speak as long as that?

A. No.

Q. In the six or eight seconds, will you tell us your version of this as to what you said, once more?

A. I told Mr. Eastin that our morale was steadily going down and I never said foreign agents, children, women and children, bread and butter——

Trial Examiner Hektoen: What did you say?

The Witness: I said something that they had pushed around about eight of our good American boys, while the Germans in the plant were constantly getting raised.

Q. (By Mr. Riggs) Now we are getting somewhere; tell us what more you said about it.

A. That's it.

Q. Didn't you say Walter Brown was right when he wouldn't work under any damned Nazi?

A. No, sir. If I had felt that way I would have quit myself that night. I wouldn't have got fired.

[67]

Q. While you were saying these things to Mr. Eastin, Mr. Henry Legal showed up first, didn't he?

A. That is right.

(Testimony of Oliver Henry Williamson.)

Q. Did you go into the same sort of speech with him? Did you repeat what you said to Mr. Eastin to Mr. Legal?

A. I didn't get a chance. Mr. Legal is too fast for me. He jumped me first.

Q. You wanted to tell him about this?

A. I not only wanted to tell Mr. Legal, I wanted to tell the Bureau of Investigation.

Q. In other words, you were highly indignant?

A. Every night when I left the plant they were hollering headlines: "More sabotage in the parts plant; more sabotage in the parts plant."

Q. You say you didn't lose your temper, but you were angry, weren't you?

A. I wasn't pleased.

Q. That's an understatement, isn't it?

A. Not much.

Q. You were pretty hot under the collar?

A. I wasn't one-third as hot as Legal.

Q. Legal was mad too, wasn't he?

A. He was mad; I wasn't mad, I was just displeased.

Q. He was mad and you were just displeased?

A. That is right. [68]

Q. How was Eastin? Was he pleased, mad, or displeased?

A. He beat it. Neither Brown nor I worked one hour for the man. He was only inducted into the situation when Hangen took a duck.

Q. You must have said something to Legal about his being a German and having a German name?



(Testimony of Oliver Henry Williamson.)

A. No.

Q. You testified here a moment ago that Legal got sore when you talked with him later on and said you were through?

A. That is right.

Q. How did he know you said he was a German?

A. He asked me what I wanted to make a complaint about.

Q. Didn't you tell him the same things you said in the presence of eight or ten men around you?

A. I said production and morale in our department was suddenly falling down, and I wanted to talk with him before a member of the Federal Bureau of Investigation, and he says to me: "What about the Germans? I am a German. You are one of us, but you haven't got sense enough to know it."

Q. He says, "I am a German." What did you say then?

A. When he said he was a German?

Q. Yes.

A. I didn't have to say anything. That was only half his statement. I says: "No, I am not a German."

Q. What—— [69]

A. You asked me a question and changed it before I got the answer out.

Q. Didn't you say a great deal more during the six or seven seconds before you were talking to Mr. Eastin, because it takes you a long time to talk?

Trial Examiner Hektoen: Isn't Mr. Eastin gone by this time?

(Testimony of Oliver Henry Williamson.)

Mr. Riggs: Mr. Eastin is gone.

Trial Examiner Hektoen: Then let us go on to Mr. Legal.

Q. (By Mr. Riggs): Wasn't Legal pretty mad when you told him about the Federal Bureau of Investigation and the Germans in the plant, he being German, and one of the foremen in the plant?

A. I imagine he was mad.

Q. And you were still displeased, I take it?

A. No. I thought that I was on my way to his office to have a calm and rational discussion of the situation, and I was quite happy about it by that time.

Q. There was nothing said about the union all the way through this conversation at all?

A. Only first, when Legal first butted into me, on his first abrupt approach, was the only time.

Q. What did he say then?

A. I better be careful or I know what he would do to me.

Q. Didn't he say that you were a union agitator making a [70] speech in the plant, and that you had to quit that?

A. No. In the meeting, before Mr. Larimore and Mr. Wiseman, he admitted that he had never seen or heard me causing a disturbance; that the story came to him second-hand.

Q. Who was it told you you ought to be ashamed of yourself, as a shop committeeman, wearing a badge, and making a speech like that in the plant?

(Testimony of Oliver Henry Williamson.)

Mr. Ryan: I object to the question. There is no such testimony.

Trial Examiner Hektoen: Sustained.

Q. (By Mr. Riggs): Did anyone tell you?

A. There was an objection and it was sustained. Am I supposed to answer?

Trial Examiner Hektoen: Did anybody tell you that? You can answer that question.

Read the question.

(The record was read.)

Trial Examiner Hektoen: Did anybody say that to you?

The Witness: No, sir.

Q. (By Mr. Riggs): Why did you take off your shop committee badge?

A. Because production was continuing to fall down and down, and I had seen eight good American boys with Anglo-Saxon names run out of the plant, one after another, while I sat in wage review as a committeeman, and saw every man with a [71] German name recommended for top money, and all the talk and propaganda in the newspapers as to the falling off of production in the Consolidated plant was the fault of the union, and I thought, "ye gods. Here comes a guy that is going to pin this drop in production on our organization."

That's why I took it off.

Q. It was entirely your own suggestion that you take it off? A. Yes.

Q. Have you ever done that before, in talking with any company officials?

(Testimony of Oliver Henry Williamson.)

A. I had only been a company man for six weeks.

Q. It was unusual for you to take off your badge when you talked on union affairs?

A. At the same time I took off my badge I asked him for a conference with him in his office. I further asked that I be allowed to punch out my time clock card and do it on my own time. I said the matter I was going to discuss with him was a matter of business other than the union, and we were circularized, and it was published in the Consolidated News, that we were supposed to bring those instances to light. I was following the dictates put out by management itself, that such a thing should be done.

Q. Who was it that finally discharged you? Hangen or Legal?

A. Hangen wrote the termination slip out, but he seemed to [72] want Legal to do it.

Q. Legal was the man who fired you?

A. Legal says: "Go ahead and fire him. I will back you to the limit."

Q. The next thing you heard of this row was the next night when this conference took place?

A. That is right; yes, sir.

Q. Did you say much at the meeting?

A. No. It was a great deal like between you and I, questions and answers.

Q. Mr. Brown and Mr. Wilkerson did most of the talking for you?

A. They were my representatives.

(Testimony of Oliver Henry Williamson.)

Q. Didn't they say this was a row where everybody lost his temper, and it was a tempest in a teapot, and you ought to go back to work?

A. I don't recall any such conversation.

Q. Didn't they say that in substance?

A. You are right, in substance.

Q. Didn't they say the whole thing was a row in which everybody had lost his temper, and it was a trivial affair anyway?

A. That question could be answered by calling on Mr. Brown and Mr. Wilkerson.

Mr. Riggs: I am perfectly willing to call Mr. Brown and [73] Mr. Wilkerson.

Trial Examiner Hektoen: Do you remember anyone saying that, or anything like that?

The Witness: No, I don't. I don't say it wasn't said.

Trial Examiner Hektoen: All right.

Q. (By Mr. Riggs): Did Mr. Wiseman — and who represented the company?

A. Mr. Wiseman and Mr. Larimore.

Q. Did Mr. Wiseman or Mr. Larimore say something to that effect?

A. I don't recall.

Q. Anyway, you went back to the company's employ with the loss of two weeks of disciplinary lay-off?

A. That is right.

Q. Outside of that you still have the same pay and are working for the company on another shift, which you think Mr. Tice put you on for your own benefit?



(Testimony of Oliver Henry Williamson.)

A. That is true, sure.

Q. And what is your grievance now?

A. I want that stricken from the record: Disciplinary lay-off, because I don't feel any discipline was justified, inasmuch as I was acting as committeeman and I want the approximately \$129.00 due for time lost.

Q. Did you file a grievance with reference to the disciplinary lay-off? [74]

A. I have had nothing to do with this case whatsoever. It has been handled by my representatives, the Aeronautical Lodge.

Q. You know the Aeronautical Lodge did not file a grievance with reference to the disciplinary lay-off of two weeks pay, don't you?

A. I am not familiar with their filings.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Anything more, Mr. Harrington?

#### Redirect Examination

Q. (By Mr. Harrington): Were you present at those meetings between Brown and Persons after April 15?

A. No, sir.

Q. Did Brown's reason for refusing to work for Ewert have anything to do with your taking up his case?

A. No, I was uninterested in the matter that the man was being given a termination slip different from the stated reason of his leaving. In other words, he stated he wanted to quit, and his foreman

(Testimony of Oliver Henry Williamson.)

told him he could quit. That boy was leaving the plant of his own will and desire, and was going to go out and ask for employment from some other employer.

Trial Examiner Hektoen: I think that is all that is necessary on that.

Mr. Harrington: That has been covered, yes.

Q. (By Mr. Harrington): You stated a little crowd collected [75] when you were talking to Eastin and you told them to go back to work?

A. That is right.

Q. Did the crowd stay around while you talked to Eastin?

A. No. I told them to go back to their benches.

Q. Did you take off your badge and punch the time clock when you talked to Mr. Legal?

A. I did remove my badge, but Mr. Legal assured me it wasn't necessary to punch the time clock.

Q. And you say you didn't receive pay for time off?

A. No, sir.

#### Recross Examination

Q. (By Mr. Riggs): All these records put in evidence about the change in your status were always as a result of conferences between Mr. Persons and Mr. Roy Brown, by which you were reinstated?

A. I wasn't present at any conferences; I don't know; what was agreed between them was agreed between them.

(Testimony of Oliver Henry Williamson.)

Mr. Riggs: Nothing further.

Trial Examiner Hektoen: You are excused, Mr. Williamson.

(Witness excused.)

Trial Examiner Hektoen: We will be in adjournment until 2:00 o'clock.

(Whereupon, at 12:30 o'clock p.m., a recess was taken until 2:00 o'clock p.m. of the same day.) [76]

#### After Recess

(The hearing was reconvened at 2:00 o'clock p. m.)

Trial Examiner Hektoen: The hearing will be in order.

Mr. Harrington: Mr. Phillips.

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#### KENNETH G. PHILLIPS,

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. Harrington): What is your name?

A. Kenneth G. Phillips.

Q. What is your address?

A. 1442 Tyler Street, San Diego.

Q. Are you employed by the company?

A. No, I am not employed by the company now. I am on a leave of absence.

(Testimony of Kenneth G. Phillips.)

Q. Are you a member of the union?

A. Yes, sir.

Q. Since when have you been a member?

A. Been a member of the union since the latter part of 1940.

Q. Do you hold any official position in the union?

A. Yes. I am the business agent for the union.

Q. How long have you been business agent?

A. Since the first of the year. [77]

Q. The first of this year?

A. This year, yes.

Q. As business agent of the union what are your duties?

A. Well, my duties are negotiating with the management relative to the business of the lodge and taking up specific grievances with the company relative to the grievances of the men and the lodge as a whole.

Q. Do you take up cases of discharge of employees by the company in your official capacity?

A. Yes; that would be one of my duties.

Q. What cases have you taken up?

A. Well, the first two cases that I had an opportunity to take up after coming into office, were the cases of A. B. Mergen and A. J. Fisher.

Q. When were those men discharged?

A. To the best of my recollection Mr. Mergen was discharged first on December 20, 1941, and Mr. Fisher was discharged January 1, I believe, of this year.

Mr. Harrington: I might state here, Mr. Exam-

(Testimony of Kenneth G. Phillips.)

iner, and Mr. Counsel, we are not alleging the discharge of Mergen as a violation of 8(3) of the Act.

Q. (By Mr. Harrington) When did you take up the discharge of Fisher?

A. The discharge of Fisher we took up with the management——

Q. By “we” whom do you mean? [78]

A. I mean Mr. R. B. Felton who was the district business representative who was working for the local at that time and we took the case of Mr. Fisher up, to the best of my recollection, on the 8th of January of this year.

Q. And who did you take it up with?

A. That was taken up with Mr. Larimore, the personnel director of the Parts Plant of Consolidated.

Q. Who was present when you took it up with Mr. Larimore?

A. Mr. Larimore and Mr.—well, Mr. Felton and myself, of course. He referred us then to Mr. Newman, the factory superintendent.

Q. Did you see Newman?

A. Yes. We went in and we had a conversation with Mr. Newman.

Q. Who is “we”? You and Felton?

A. Mr. Felton and myself.

Q. What happened in that conversation?

A. Well, really the conversation was very short.

Q. Well, what happened?

A. (No response).



(Testimony of Kenneth G. Phillips.)

Mr. Riggs: May I interpose an objection? It seems to me that the order of proof should be that you give the circumstances of the discharge of Mr. Fisher and the negotiations subsequent to his discharge with the company, the company having taken the position that they would not reinstate him [79] is immaterial.

Mr. Harrington: Well, Mr. Riggs, I intend to put Mr. Fisher on tomorrow. I have been unable to get him today. I understand he is working some place in town. I don't know just where, but I intend to put him on tomorrow morning. I was putting this witness on out of turn inasmuch as I have been unable to get ahold of Mr. Fisher, but we are not going into the circumstances of the discharge here. I am going into them tomorrow with Fisher and I didn't intend to preclude you from any sort of defense or anything of that nature.

Trial Examiner Hektoen: Is that all right, Mr. Riggs?

Mr. Riggs: Well, I still think it is immaterial, the conversation they had with the management.

Mr. Harrington: This is a representative of the union who was taking up a grievance with a representative of the company.

Trial Examiner Hektoen: If that is the objection it will be overruled. Go ahead.

Q. (By Mr. Harrington) We were discussing the conversation that you and Felton had with Newman. A. Yes.

(Testimony of Kenneth G. Phillips.)

Q. What occurred in that conversation?

A. In the conversation with Mr. Newman Mr. Felton and I both spoke relative to Mr. Fisher's discharge and stated the [80] Union's position, that we felt the discharge was unwarranted.

Q. Did Mr. Newman make any reply to that?

A. Mr. Newman's reply was that in his opinion and in the opinion of the management of Consolidated, Mr. Fisher was his own worst enemy and that the company felt they were justified in his discharge and that they would under no circumstances consider Mr. Fisher for to be taken back into the employ of the company. [81]

Q. Did you take up Fisher's case with any other officials of the company?

A. Yes. We took up Mr. Fisher's case with Mr. Wiseman.

Q. Who took it up?

A. At that time Mr. R. B. Felton and Mr. L. A. Perry and myself were in Mr. Wiseman's office in the home plant.

Q. When was this? Can you place the date?

A. That was some time afterwards; I imagine it was, well, approximately the 18th or the 20th of the month; right around there.

Q. What took place during that conversation?

A. During that conversation Mr. Wiseman was very adamant in his stand as to the company's position.

Q. What did he say?

(Testimony of Kenneth G. Phillips.)

A. He stated the company still felt they were justified in Mr. Fisher's discharge, and that the company's position would not change and they did not intend to change their position. He would not be rehired.

Q. I believe you also took up Mergen's case with the company?      A. Yes.

Q. When?

A. When I first contacted Mr. Mergan, it was on the day of his discharge, December 20. I was working at the plant at the time. I had been elected to my position as business representative of the local; however, I wasn't to take office [82] until the first, and I was still in the plant. I ran across Mr. Mergan in the yard, and I accompanied him into Mr. Larimore's office, and I asked Mr. Larimore if there was any objection to my sitting in on the hearing and having a word to say on Mr. Mergan's behalf. They stated no.

I had a word with Mr. O'Connell, shop committee, and I believe Mr. Harkins, another committeeman, I think shop foreman for the plant was there, plus Mr. Eckdoll, foreman of Mr. Mergan's department, Mr. Larimore, and Mr. Mergan, of course.

Q. What happened?

A. At that time we discussed Mr. Mergan's case and we tried to effect for Mr. Mergan a transfer in another department in place of an outright discharge, and they would not reconsider his case, and terminated him from the plant that day.

(Testimony of Kenneth G. Phillips.)

Q. Did you take up his case with the company at any time thereafter?      A. Yes.

Q. When?

Mr. Riggs: I object to the question as immaterial, inasmuch as Mr. Harrington states the discharge of Mr. Mergan is not before the Examiner for consideration under any phase of the complaint.

Mr. Harrington: His discharge has not been alleged as a [83] violation of the Act, but what I am going into is what efforts the union took thereafter to take his case up for consideration by the company, and there is a procedure in the contract for taking up grievances.

Trial Examiner Hektoen: What are you going to do with it?

Mr. Harrington: We are alleging the company refused to consider Mergan's case and discuss it with the union as bargaining agent for the individual.

Trial Examiner Hektoen: It is part of your case of refusal to bargain?

Mr. Harrington: Yes.

Trial Examiner Hektoen: In that event, what do you think?

Mr. Riggs: It seems to me the testimony shows they did bargain, and it will be elucidated hereafter that not only did they have several discussions about Mr. Mergan, but there was the matter of attempted conciliation with Mr. Walsh from Los Angeles, who came down here.

Trial Examiner Hektoen: We do not have all

(Testimony of Kenneth G. Phillips.)

that as yet. On his explanation you may go ahead, Mr. Harrington.

Q. (By Mr. Harrington) When did you take up Mergan's case again with the company?

A. Mergan's case again was taken up with Mr. Wiseman, and I think Mr. Felton and I took it up with Mr. Wiseman in his office. [84]

Q. What occurred at that meeting?

A. Well, at that meeting he stated the company's position was still the same, and there wasn't any long drawn out discussion on it. The company's position was very adamant and very strong. They would not discuss it too lengthily. They had their position and would not change it.

Q. Did you attempt to take up either Fisher's or Mergan's case any further?

A. No, I did not. We felt, with the company's position being so very strong, and whereas they wouldn't discuss it to any great length, it was futile to attempt to take it up any further.

Q. At that time did the contract provide for arbitration?

A. Yes, there was an arbitration clause in the contract.

Q. Did you attempt to invoke that clause?

A. No. We further felt that there was no use to try to arbitrate the matter where the company's position was so one-sided.

Q. Does your contract between the company and the union provide for a review of wage rates for the employees?      A. Yes.



(Testimony of Kenneth G. Phillips.)

Q. Does it provide individual increases?

A. Yes.

Q. What provision of the contract is that?

A. That is Section 3 of the union agreement. [85]

Q. What does that provide, can you state?

Trial Examiner Hektoen: We have it in evidence.

Mr. Harrington: All right.

Q. (By Mr. Harrington) Was that the method of granting interim wage increases by the company, if you know?

A. The method of granting interim merit increases at that time was not being followed by the company.

Q. What called to your attention the fact that it was not being followed?

A. Prior to my taking office, and many times afterwards; but I had no opportunity to do anything about it, or take it up with the company.

Q. I believe you stated you became business agent in January of this year? A. Yes.

Q. After becoming business agent did you attend a conference with the company?

A. Yes. We attended one specific conference on January 7.

Q. Was this matter taken up at that time?

A. Yes, that matter was taken up at great length.

Q. Who was present at that conference?

A. For the union there was Mr. Roy Brown, the Lodge representative, Mr. N. R. Pyatt, Mr. R.

(Testimony of Kenneth G. Phillips.)

B. Felton, Mr. W. J. Chudleigh; I believe also there was Mr. Wilkerson, Mr. L. A. Perry, Mr. [86] J. E. Bruce, and myself.

Q. What occurred at that meeting?

A. At that meeting——

Q. With respect to these interim increases.

A. We discussed it with the plant management, Mr. Woodhead, and Mr. Laddin, Mr. Fleet, Mr. Bowers, and Mr. Wiseman.

Q. Who is Mr. Woodhead?

A. Mr. Woodhead is president of Consolidated.

Q. And Mr. Laddin?

A. Production manager, I think; I am not sure.

Mr. Riggs: Vice president and general manager.

Mr. Harrington: Thank you, Mr. Riggs.

Q. (By Mr. Harrington) What were the other names you mention? Mr. Laddin?

A. Mr. Laddin, vice president and general manager, Mr. Wiseman.

Q. I think we have Mr. Wiseman identified.

A. Mr. Bowers, Mr. Fleet, Mr. Wiseman at that meeting, delegated by the company as the labor relations committee with which we were to do business.

Trial Examiner Hektoen: Which Mr. Fleet?

The Witness: Dave Fleet.

Trial Examiner Hektoen: Is that the son of Major Fleet?

The Witness: Yes. [87]

(Testimony of Kenneth G. Phillips.)

Trial Examiner Hektoen: What is his position?

The Witness: Now——

Q. (By Mr. Harrington) At that time?

A. At that time the company had designated these three gentlemen, Fleet, Bowers and Wiseman as the labor relations committee with which we were to do business. The union was to take all their problems to them.

We took up, in the presence of all these gentlemen, the fact that the interim merit increases were not being granted under the procedure as set up in the union agreement. Mr. Roy Brown brought that to their attention and they stated the condition would be corrected.

Q. How did they state the condition would be corrected?

A. They stated they would put out a memorandum to the foremen in the departments, that the interim merit increases would have to be signed by the union committeemen before being put into effect.

Q. Did anything else occur after that conference with respect to these interim increases?

A. Yes; it was brought to my attention that the interim increases were not being presented to the union committeemen for their signature prior to putting them into effect.

Q. Who brought it to your attention?

A. It was brought to my attention by many of the committeemen in the departments, from the de-

(Testimony of Kenneth G. Phillips.)

partments they [88] represented, and primarily by the shop foreman, Mr. M. J. Torreys.

Q. As a result of that information did you take any steps?

A. Yes, I did. We took that up in general conference in the Union Hall, and Mr. W. J. Chudleigh called the management and asked through a telephone conversation for a meeting.

Q. Who of the management did he call? Do you know?

A. I think he called Mr. Dave Fleet. I couldn't be positive on that.

Q. Was such a meeting held?

A. Yes, we had a meeting that afternoon with Mr. Chuck Leigh.

Q. Who is he?

A. Mr. Leigh's title I don't know.

Mr. Riggs: He is vice president of the company, assistant general manager.

Q. Thank you, Mr. Riggs.

What took place at that meeting?

A. At that meeting we stated the company was not following out the clause in the parent union agreement relative to going to the committeeman prior to granting interim merit increases.

Q. What else occurred at that meeting?

A. Well, at that meeting the general committee we sent down formulated a new memorandum to be sent out to the union [89] foremen in the departments stating they would have to contact the committeemen prior to granting these increases.

(Testimony of Kenneth C. Phillips.)

Mr. Harrington: Will you mark this as Board's next exhibit in order?

(The document referred to was marked as Board's Exhibit No. 7 for identification.)

Q. (By Mr. Harrington) Mr. Phillips, I show you a paper I have had marked Board's Exhibit 7 for identification. Have you seen that paper before?

A. Yes; that's the memorandum that we drew up in his office, Mr. Leigh's office.

Mr. Harrington: I offer Board's Exhibit No. 7 for identification in evidence as Board's Exhibit 7.

Trial Examiner Hektoen: Without objection, I take it?

Mr. Riggs: Yes.

Trial Examiner Hektoen: All right.

(Thereupon the document heretofore marked for identification as Board's Exhibit No. 7 was received in evidence.)

## BOARD'S EXHIBIT No. 7

(Copy)

Consolidated Aircraft Corporation  
San Diego, California

January 22, 1942

Memo to: All Department Heads

Subject: Policy with regard to Interim Wage Increases

I have been informed that the Union has interpreted my memo of 11 November 1941 on the above



(Testimony of Kenneth G. Phillips.)

subject as a violation of that portion of Section 3 of the Union Agreement which reads as follows:

“In accordance with past practice, the Company will approve interim individual increases when justified, after consulting the Foreman and the Union Committeeman of the Department concerned.”

It is this Company's policy to comply fully with all provisions of the Union contract. If a Foreman or Department Head feels that an employee merits an increase before the next wage review period, such increase will be approved providing the new rate falls within the approved rate range for the job. Rate ranges for the various jobs have been, or will be, established under the jurisdiction of the Wage and Salary Committee.

I. M. LADDON

Vice President and General  
Manager

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Q. (By Mr. Harrington) Did the issuance of this memorandum change conditions?

A. No; there are many cases that came to my attention after that where the foremen in the department were granting increases without consulting the committeemen prior to the granting those increases.

Q. Who called this to your attention? [90]

A. Well, one specific instance was called to my attention by Mr. W. D. Lewis, who was committee-

(Testimony of Kenneth G. Phillips.)

man in the purchasing department. Mr. Lewis brought to me memorandums that were sent out from Mr. Herman Wiseman to the department head, Mr. E. Stewart, and on these were listed and itemized names of the individuals involved in increases, and the amount of the increases, and effective date as shown on that, prior to even showing them to the committeemen for their signature.

Q. Did you do anything about those?

A. We discussed those, and as I say, Mr. W. B. Lewis and myself discussed it with Mr. Herman Wiseman in his office.

Mr. Harrington: Will you mark these, please?

(The documents referred to were marked Board's Exhibits Nos. 8-A through 8-E, inclusive, for identification.)

Q. (By Mr. Harrington) I show you papers marked Board's Exhibit 8-A to 8-E for identification. Have you seen those papers before?

A. There are a lot of names here. I am sure they are.

Mr. Harrington: I offer Board's Exhibits 8-A to 8-E inclusive, in evidence, as Board's Exhibits 8-A to 8-E.

Mr. Riggs: I would like to ask the witness two or three questions about those.

Trial Examiner Hektoen: Very well. [91]

#### Cross Examination

Q. (By Mr. Riggs) Just one more question. These are memorandums, one dated—one memor-

(Testimony of Kenneth G. Phillips.)

andum dated February 3rd with reference to E. T. Stewart, with reference to rate increases of certain men, and at the bottom of them it says, "We enclose a duplicate copy in order that you may advise the shop committeeman." Have you noticed that, Mr. Phillips?      A. Yes, I did.

Q. Can you swear that none of the shop committeemen had been consulted about these men before this increase was made, of your own knowledge?

A. Of my own knowledge I know that Mr. W. D. Lewis was not consulted on any of those names prior. If there were any committeemen——

Q. What department was he in?

A. He was in Department 8.

Q. Purchasing department?

A. Purchasing department, yes.

Q. And he told you that he had not been consulted?      A. That is right.

Q. Do you know the purpose of the company writing at the bottom of these rate increases: "We enclose a duplicate copy in order that you may advise the shop committeeman."

A. Do you want me to answer that in my own words?

Q. Yes. [92]

A. All right. The shop committeeman is not to be given a copy of these after they have been granted; he is to be shown those prior to them being O.K'd.

Q. Don't you know the purpose of giving him

(Testimony of Kenneth G. Phillips.)

these lists by a duplicate copy, was to let him have a list of what he previously agreed to so there would be no question about it?

A. No, I don't know that. I don't believe that.

Q. You don't know that of your own knowledge?

A. I don't believe that is true. As a matter of fact I know it isn't true in this particular case.

Q. Well, why would the company say: "We enclose a duplicate copy in order that you can advise the shop committeeman", and give it to the shop committeeman unless that was the purpose, to confirm in his own mind what he had previously agreed to?

A. According to the current union agreement and—according to the current union agreement the committeeman is to be contacted prior to granting the increases, before any memo is made out, which was not done.

Q. Well, don't you know there have been a lot of cases in the plant where committeemen had claimed that they had not been contacted and the foreman had claimed that they had been?

A. Well, I am not interested in that. All I am interested in is this particular question.

Q. Answer my question. Don't you know there were a number [93] of such instances?

A. No, I don't.

Q. You have never heard of any such instances?

A. None have been called to my attention, no.

Q. Now, with reference to the memorandum of February 19th, with reference to a rate increase

(Testimony of Kenneth G. Phillips.)

for a man named Davin, which had thereon: "We enclose a duplicate copy in order you may advise the shop committeeman"—do you know who the shop committeeman was?

A. No, I don't know all those names—who the committeemen were.

Q. Let us give the Examiner an idea of the magnitude of the operations of this company and the shop committeemen. If you know how many there are now.

A. No, I only handle my own. I know how many I have.

Q. Don't you know there are over 270 shop committeemen in the plant now, and over 125 stewards?

A. I presume that is about the ratio.

Q. Well, is it your idea that the foreman must seek out the shop committeemen with reference to an interim raise of any individual for merit instead of committeemen seeking him out?

A. It is not only my idea but it is definitely a part of the agreement, he must, yes.

Q. And he must secure his approval?

A. Absolutely. [94]

Q. And he must not only consult with him but secure his approval? A. Absolutely.

Q. And can you swear that that was not done in the case of this man Davin in the purchasing department?

A. I can't swear to any one particular name because this Mr. Lewis was the committeeman for Davin and, incidentally, some of these at the time



(Testimony of Kenneth G. Phillips.)

Mr. Lewis had checked off some of these, at the time he stated he had been contacted on them, I think there were two or three, so I would be in a poor position to swear on any one case.

Q. Well, these are all with reference—in connection with February 12. This was with reference to four people in the purchasing department with the same foreman and the same statement thereon, that a duplicate copy is enclosed in order that you may advise the shop committeeman, and do you know of your own knowledge whether the shop committeeman had been consulted about those four?

A. I am taking merely the word of Mr. W. D. Lewis.

Q. And you don't know anything about this yourself?

A. I didn't check it. We took that up with Mr. Wiseman and Mr. Wiseman confirmed it, and I presumed that he was in a position to know better than I.

Q. Would your answer be the same with reference to this one of January 30th? [95]

A. My answer would be the same on all of those.

Q. That all you know is what Mr. Lewis told you?

A. Not only what Mr. Lewis told me, but what Mr. Wiseman, the company's officer, stated also was a fact.

Q. Didn't Mr. Wiseman tell you a duplicate

(Testimony of Kenneth G. Phillips.)

copy was furnished to the foremen to give to the committeemen so as to confirm what had already been arranged with the committeemen?

A. Mr. Wiseman at that time stated that it was being handled improperly and that he would correct it in the future.

Q. But so far as these individuals are concerned, all you know is what Mr. Lewis told you about it?

A. No; what Mr. Wiseman also confirmed at that time, and Mr. Lewis.

Q. Did you talk to him about these specific cases?

A. Why yes, we did. We had those in with us.

Mr. Riggs: I object to this as not being sufficiently proven.

Trial Examiner Hektoen: May I see them?

(Exhibits handed to Trial Examiner.)

Trial Examiner Hektoen: What is Wiseman's title again?

The Witness: His title—he is no longer with the company, but his title at that time was Labor Relations Director, I believe.

Trial Examiner Hektoen: What are these offered for, Mr. Harrington? [96]

Mr. Harrington: They are offered as evidence showing Wiseman—showing that these individual interim increases had been granted without consulting the union committeemen.

Trial Examiner Hektoen: It doesn't seem to me they prove anything about not consulting the union

(Testimony of Kenneth G. Phillips.)

committeemen. Standing alone they simply say that such and such happened and unless Mr. Phillips knows of his own knowledge——

Mr. Harrington: They tend to complete the picture.

Trial Examiner Hektoen: They tend to complete the picture but just at this point they don't seem to prove anything.

Mr. Harrington: Well, I will withdraw my offer then for the time being.

Trial Examiner Hektoen: Very good.

#### Redirect Examination

Q. (By Mr. Harrington) You have testified that you and Committeeman Lewis discussed increases with Wiseman. What did Wiseman do at the time?

A. Mr. Wiseman stated that he would notify Mr. Ed Stewart that in the future the committee was to be contacted prior to actually granting the increase and he was not to be shown a copy, such as these copies here are, which state that the committeeman is to be given those copies after the company has already O.K'd the increases and put in the effective date, and that that would be done throughout the shop.

Q. Did anything else occur with respect to those increases? [97]

A. Yes; the following day——

Q. What day was that?

A. That was sometime in the first part of March. I don't know the exact date. There were 365 or

(Testimony of Kenneth G. Phillips.)

385 increases in the inspection department, which increases had been granted without consulting the union committeeman.

Q. Was anything done about those increases?

A. Yes. We were in a meeting with the conciliator, Mr. Harry Malcomb and Mr. Roy Brown presented those to Mr. David Fleet, the chairman of the company's panel of that committee, and showed him the evidence that these increases had been put into effect or were to be put into effect and that individual slips had been given to the men stating that effective at a certain date, which was, I believe, the 4th of the month, that they would be given certain specific increases, and we haven't any knowledge of it.

Mr. Freeman, the union committeeman, had brought those in to me.

Q. Did anything else occur at that meeting with respect to these?

A. Well, in respect to these, yes. Mr. David Fleet stated that after checking that the increases were not properly granted, and further stated that the increases would not be put into effect, and at that time we stated that inasmuch as the company had already done all of the harm that it was possible to do by granting these increases unjustly—that [98] is not in conformity with the union agreement, and also given slips to the men regardless, didn't make any difference to us whether they put them into effect or not.

(Testimony of Kenneth G. Phillips.)

Q. Did you participate in the wage review of April, 1941? A. Yes, I did.

Q. What is the wage review, Mr. Phillips?

A. Well, the wage review was where each individual after six months continuous service with the company is reviewed upon his merits and ability on the job he is performing, to the amount of increase he is to be given.

Q. During that wage review in April, 1941, was a minimum rate of pay established for crane operators?

A. At that time there were various rates of pay for crane operators, and we did establish a minimum rate of pay for all crane operators of 75 cents per hour.

Q. Have any increases been granted since that time?

A. Well, since that time there have been merit increases of 5 cents at one time and 13 cents at another time.

Q. Have those increases been general and by "general" I mean have they covered all the employees?

A. They have covered all the employees in the department, yes—in all departments.

Q. Did these overhead crane operators receive those increases?

A. Yes. The overhead crane operators received their in- [99] creases along with the others.

Q. Have men hired since received those increases?



(Testimony of Kenneth G. Phillips.)

A. No. The men hired subsequent to that time, or after that time, were not, of course, given the merit increases of 5 and 13 cents.

Q. Has the union discussed that matter with the company?

A. Yes, we did. We discussed that.

Q. When?

A. With the company. That was in the Parts Plant sometime I believe in the month of February—in the first part of February, in general conferences we had.

Trial Examiner Hektoen: I am sorry, but I don't understand this. This wage review took place in 1942?

Mr. Harrington: 1941 is the date.

Trial Examiner Hektoen: And you are speaking now of 1942?

The Witness: Yes.

Q. (By Mr. Harrington) And who was present at those conferences?

A. Well, for the company, the Labor Relations Committee, Mr. Wiseman, Mr. Bowers and Mr. Fleet. For the union Mr. Roy Brown, Mr. Wilkerson and Mr. Perry and Mr. Bruce and myself.

Mr. Riggs: What was the date of that, Mr. Phillips?

The Witness: That was, I believe, in the first part [100] of February.

Mr. Riggs: This year?

The Witness: Yes.

(Testimony of Kenneth G. Phillips.)

Q. (By Mr. Harrington) What occurred at that meeting with respect to this matter?

A. At that meeting we brought out the fact that during the 1941 wage review, in April we established a 75 cent minimum rate for the crane operators and further, our position was at that time that the 5 cent and 13 cent blanket increase, which brought these people up to 93 cents base per hour was to be considered their base rate of pay inasmuch as we had negotiated the 75 cents originally and the others were all enjoying the 93 cents, whereas the new-hirers after that time were being paid less money.

Q. What position did the company take at that time?

A. Well, the company's position was that we had a 60 to 75 cent minimum rate of pay in the agreement and that they would not agree to pay the overhead crane operators any base rate of pay.

Q. Was anything else done about that situation?

A. I believe that that was taken up also with the Conciliator and the union and the company's committee, before the National conciliator during the month of March in the Grant Hotel in these conferences.

Q. Has the union—has the situation been adjusted? [101]

A. To my knowledge it has not to date.

Q. Has the company agreed to negotiate the matter?

(Testimony of Kenneth G. Phillips.)

A. To my knowledge the company has not agreed to negotiate the matter.

Q. How many shifts were worked in the plant during 1941—that is, how many shifts a day?

A. Two shifts.

Q. Is the plant working two shifts now?

A. No. They are on a three-shift schedule right now?

Q. When was the three shift operation put into effect?

A. That was during the month of March.

Q. Was this matter discussed between the company and the union before it was put into effect?

A. Yes, it was at these conferences, general conferences we had at the parts plant between the——

Q. And what took place?

A. The two committees. Well, the company discussed with us the fact that it was going to be necessary to go on a three-shift operation and the only thing that was discussed at that time was that we felt that the third shift would have to come under the agreement the same as the second shift, and the bonuses would have to be paid for the third shift also.

Q. What sections of the contract covered the working hours and——

A. I believe that is Section 4.

Q. And is there any section covering overtime pay?

A. Yes. The overtime pay—the overtime clause states that [102] the work week shall consist of Monday through Friday and that the sixth

(Testimony of Kenneth G. Phillips.)

consecutive day will be paid time and a half and the seventh consecutive day will be paid at double time.

Q. Has the company put three shifts into operation?

A. Yes; three shifts are operating now.

Q. What are the hours of those shifts, if you know?      A. They change so much.

Q. Well, can you tell me what the third shift—what would be the hours of the third shift operation?

A. I understand the third shift is operating from 12:00 midnight to 7:00 in the morning.

Q. Was this matter taken up with the company again?

A. Yes. We discussed with the company before the National Conciliator at our meetings in the Grant Hotel the fact that the company was placing — in other words, they had a shift that started at midnight Saturday night which would—

Q. And when did that shift end?

A. Well, that shift ended on Sunday morning at 7:00 o'clock.

Q. What was discussed with reference to that?

A. At that time we told the company that they were working those people on a double time day and not paying the proper rate of pay.

Q. That would be 12:00 midnight Saturday to 7:00 A. M. Sunday?

A. Sunday morning, yes. [103]

Mr. Riggs: May we go off the record?

(Testimony of Kenneth G. Phillips.)

Trial Examiner Hektoen: Yes. Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Q. (By Mr. Harrington) What was the union's contention with respect to that shift?

A. Well, we felt it was a double time shift inasmuch as it was a shift that worked on Sunday, or a double time day.

Q. And what day of the week would you call that shift then?

A. Well, that would be Sunday.

Q. I mean, what number?

A. Seventh consecutive day.

Q. The seventh consecutive day on that shift?

A. Yes.

Q. What was the position of the company—what did they state?

A. Well, the company's representatives had their own opinion about it and their opinion was it was not the seventh consecutive day inasmuch as they felt that they were starting the work week as of that Sunday and, of course, the company had their position and we had our position.

Q. And the company has followed its own interpretation, has it?

A. The company stated that they would follow their interpretation of it rather than ours, yes. [104]

Q. Was the matter taken up in conciliation service conferences?

A. It was discussed in conciliation service, yes.

Q. What happened there?



(Testimony of Kenneth G. Phillips.)

A. Well, we actually didn't get any definite statement one way or the other and it still is an issue, as I understand it.

Q. Have you in your union capacity taken up the question of job classifications with the company?

A. Yes, we have taken that up.

Q. Does the company have job classifications in effect?

A. The company have their own job classifications, yes.

Q. Were those negotiated between the union and the company?

A. Those were not negotiated between the union and the company.

Q. How were those job classifications set up, if you know?

A. Well, I don't know. The job classifications were set up by the major aircraft corporations in Southern California, and they got together and established the classifications and also, as I understand, rates to apply to those classifications.

Q. Has the union taken up this matter with the company?

A. Yes, we have repeatedly.

Q. Can you place the times that you have taken it up with the company?

A. (No response.)

[105]

Q. When was it first taken up?

A. Well, it was first taken up at these general conferences that we had with the company's labor relations committee. I wouldn't put dates down

(Testimony of Kenneth G. Phillips.)

because I don't believe that there is any general conference that we ever had that the subject wasn't discussed to some extent.

Trial Examiner Hektoen: All you are testifying to about now took place sometime in 1942, is that right?

The Witness: Yes.

Mr. Harrington: Since January.

Q. (By Mr. Harrington) What happened in those conferences with respect to this matter? What was said and done?

A. Well, the company's position has been and was at that time——

Q. What position did the union take?

A. We told the company we felt they had no right to establish arbitrarily, job classifications and rates of pay without negotiating those rates of pay and classifications with the organization.

Q. And what position did the company take?

A. The company's position was that they were only using those classifications and rates as a guide and our position further on that was that they ceased to be a guide when the company actually put them into effect.

Q. How did you know that the company put them into effect? [106]

A. Well, every day on the current wage review they refused to go beyond certain established tops for specific jobs for individuals that were being reviewed on those jobs.

(Testimony of Kenneth G. Phillips.)

Q. Did you take the matter up personally with anyone representing the company at any time?

A. I don't think that I made any personal issue, only that one time I took it up with Mr. Wiseman and also in the conference that we had relative to one of our employees that we felt was improperly classified in the inspection department. We were discussing that individual.

Q. Who was discussing him?

A. Let me see, I was there with Committeeman Brandon of that department, Mr. Wiseman for the company and the department head, Mr. DeMarsh and Mr. Thompson were there also and in our conversation relative to the individual involved we were discussing the amount of money and we were discussing the rates of pay and so forth.

Mr. Wiseman brought out the point again of the 60 to 75 cent minimum we have in our agreement.

Q. What did he say?

A. Well, he stated that that was the only rate that we had in our agreement and that until the company would agree to set down and negotiate rates of pay that that was as far as the company would go. And he further stated at that time that he was telling me then and there that the company would not [107] sit down and negotiate rates of pay and classifications at that time.

Q. Did you state anything at that time?

A. Well, I just—I merely stated that we had

(Testimony of Kenneth G. Phillips.)

ways and means to force the company to negotiate those rates of pay and classifications.

Q. Can you place the date that you had that conference with Wiseman?

A. Some time in February. I don't remember exactly the date.

Q. Was that matter taken up again between members of your committee and the company's committee—the committees that you have mentioned in your previous testimony?

A. Well, it has been taken up continuously and we have never been able to effect any satisfactory answer to the question.

Q. Has the company ever furnished the union with a copy of the job classifications?

A. No.

Q. The rates of pay?

A. No; they have never given us that.

Q. Has the union ever asked for a copy?

A. Yes, and in one of our general meetings between the labor relations committee of the company and our general committee, Mr. Roy Brown, the business representative, stated [108] to Mr. Fleet that we would like a copy. Mr. Fleet stated that the classifications were no secret and they would be very glad to supply that copy, and also stated that Mr. Wiseman would see that we received it.

Q. Did you ever ask any representative of the company for a copy, you yourself, personally?

A. Well, yes. After that particular incident

(Testimony of Kenneth G. Phillips.)

—and incidentally the copy was never forthcoming, I discussed it with Mr. Wiseman myself and he stated that if that statement had been made that he didn't recall it, and then further I got in touch with Mr. Fleet and tried to recall to his mind the fact that he was going to give us those classifications and he couldn't remember himself, so we never received them.

Q. Did you ask Mr. Fleet about the statement?

A. Yes. He said that he just didn't remember that he had ever made that statement to us in a general conference.

Q. Has this matter been settled satisfactorily to the union or has it been discussed or negotiated?

A. You mean—

Q. Between the company and the union, this matter of job classifications and rates of pay?

A. The matter of job classifications has not been negotiated between the company and the union, and at no time has the company shown any inclination or willingness to negotiate with the union. [109]

Q. Mr. Phillips, in your official capacity you take up grievances with officials of the company, I believe you stated, did you not?

A. Yes, sir.

Q. What official do you take them up with?

A. Well, right now I am taking them up with Mr. Walker Burr, the labor relations manager, or his assistant, Mr. Vance.

Q. What grievances have you taken up with Vance?



(Testimony of Kenneth G. Phillips.)

A. Well, I have taken up grievances with Mr. Vance—as a matter of fact I take up grievances with him every day.

Q. Have you taken up any grievances with him about changing people from hourly to salaried pay bases? A. Yes, I have.

Q. When and what was that grievance, or when was it?

A. Well, it came to my attention some time back that the company was taking our union people, without changing their job status or anything else, and placing them on a salaried rate of pay and taking them out from under the jurisdiction of the union by this change from hourly to salary.

Q. How did you bring that matter to Vance's attention?

A. Well, that was filed in the form of a grievance.

Mr. Harrington: Will you mark this for identification, please? [110]

(The document referred to was marked as Board's Exhibit No. 9 for identification.)

Q. (By Mr. Harrington) Mr. Phillips, I show you a paper I have had marked for identification as Board's Exhibit No. 9, and ask you if you are familiar with that and can describe it?

A. That is the grievance that I filed.

Q. Did you compose this grievance?

A. That is my composition.

Q. And in whose handwriting in this?

(Testimony of Kenneth G. Phillips.)

A. That is mine.

Q. That is yours also?           A. Yes.

Mr. Harrington: I offer Board's Exhibit No. 9 for identification in evidence as Board's Exhibit 9.

Mr. Riggs: No objection.

Trial Examiner Hektoen: It may be received, without objection.

(The document heretofore marked as Board's Exhibit No. 9 for identification was received in evidence.)

#### BOARD'S EXHIBIT No. 9

##### Grievance Form

Aeronautical Mechanics Lodge 1125, I.A.M.  
San Diego

Date June 2, 1942

Name Aeronautical Mechanics Lodge 1125

Dept. \_\_\_\_\_ Clock No. \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_

Rate Pay \_\_\_\_\_ Last Raise \_\_\_\_\_ Date \_\_\_\_\_ Shift \_\_\_\_\_

Present Duties \_\_\_\_\_ Months Service \_\_\_\_\_

Leadman \_\_\_\_\_ Foreman \_\_\_\_\_

##### Details of Grievance

It has come to the attention of Aeronautical Mechanics Lodge 1125 that Department 8 (Purchasing) has been taking hourly paid Supervisors who come under the jurisdiction of the Union and placing them on the administrative payroll (a salaried rate of pay). This is contrary to the Union Agreement and we are anxious to have this practice discontinued. I have also been notified and verified the fact that Ed Stuart, Foreman of that Department,

(Testimony of Kenneth G. Phillips.)

has evidently checked the dues deduction cards on all salary employees in his Department, especially women employees who are Union members, and had his clerk notify those women employees on salary that the Union had no jurisdiction over them and could do them no good and requested them to write a letter to the Union requesting the Union to take them off the membership roll. We suggest that Mr. Stuart confine his activities to the management of his Department and leave the Union business to the Union Representative. There is enough work for both parties concerned.

We hereby request and demand that the Company notify Mr. Stuart of the Purchasing Department to refrain from coercing and intimidating our Union people, regardless of pay status and we further request that a check be made on those people now on salary who were originally hourly paid employees and have been transferred to salary so that in compliance with the understanding arrived at in general conferences with the Consolidated Labor Relations Committee, the Union Committee and Mr. Harry Malcolm, U. S. Conciliator, that all those people who were originally on hourly will be returned to an hourly rate of pay so that they may obtain the full benefits of our Union Organization.

-----  
Shop Committeeman

-----  
Employee's Signature

Disposition

Referred to N.L.R.B.

Committeeman

Business Agent

(Testimony of Kenneth G. Phillips.)

Q. (By Mr. Harrington) Did you have any other conversation or contacts with them after that about this matter?

A. Yes. I contacted Mr. Vance. I wanted to get Mr. Vance's reply.

Q. And when did you contact him? [111]

A. Well, I imagine it was around——

Q. Bearing in mind the date on that exhibit which, I believe, is June 2nd?

A. I think it would be around the 8th or 10th. I am not positive.

Q. And where did you see him?

A. I saw him in his office in the plant.

Q. Who was present?

A. Just Mr. Vance and myself.

Q. What was said at that meeting between you and Vance?

A. Well, at that meeting—I mean—that is concerning——

Q. Well, concerning this matter?

A. Concerning this matter? I stated to Mr. Vance that I wanted the company's answer on the grievance and he told me that Mr. Ed Stewart, who I had stated in the grievance had spoken to these people, and I contended in the grievance that he was the party probably who was at fault and he stated, "No," that it was not Mr. Ed Stewart; that a memorandum had been sent out under the signature of Mr. Perrilli, the production manager, as I understand it, and it had been sent out to the head of that department and in that memo it stated

(Testimony of Kenneth G. Phillips.)

that, if I recall the language properly, that the following people—I didn't see the people but it said "The following people" and it was attached, evidently, that those people would be contacted by the company, by Mr. Stewart and told [112] that, relative to the company policy on salaried employees, that they should do something about their affiliation, or dis-affiliation with our local if they wanted to remain in their salaried positions.

Q. Did Mr. Vance show you that letter?

A. Mr. Vance didn't actually show it to me. It was on the table there and I had an opportunity to see it, and then he read me the excerpts from it, or the majority of it.

Q. How much of it did he read to you?

A. Just the part that I stated there, that the attached people, which he didn't read the names, were to be contacted by the foreman and that the company's policy—evidently the company has a policy that these men, these people are to be contacted and told the company's policy relative to salaried employees, and that they were to tell them that they were to get in contact with the lodge relative to their union membership.

Trial Examiner Hektoen: And what?

The Witness: They should not belong to our organization.

Trial Examiner Hektoen: In other words, they were to quit?

The Witness: That they no longer wanted to be on our union rolls.



(Testimony of Kenneth G. Phillips.)

Trial Examiner Hektoen: All right.

Q. (By Mr. Harrington) Mr. Phillips, could you identify a [113] copy of that letter if you saw it?

A. Yes, I think it could identify it.

Mr. Harrington: Will you mark this, please, Mr. Reporter?

(The document referred to was marked as Board's Exhibit No. 10 for identification.)

Q. (By Mr. Harrington) Mr. Phillips, I show you a paper I have had marked for identification as Board's Exhibit 10. Have you seen that paper before?

A. That is the letter. It is under the signature of Mr. C. W. Perrilli.

Mr. Riggs: Where is the list attached?

The Witness: I never saw the list attached myself.

Mr. Riggs: No objection.

Mr. Harrington: I offer Board's Exhibit 10 for identification in evidence as Board's Exhibit 10. This is also a copy that has been agreed upon between counsel.

Trial Examiner Hektoen: Without objection it may be admitted.

(The document heretofore marked for identification as Board's Exhibit No. 10 was received in evidence.)

(Testimony of Kenneth G. Phillips.)

BOARD'S EXHIBIT No. 10

(Copy)

Consolidated Aircraft Corporation  
San Diego, California

May 20th, 1942

Confidential

Memo to: Mr. Wm. Renison

From: C. W. Perelle

Subject: Union Dues

Attached you will find a list of names of people who are a part of your supervision, who are on the salary payroll, and who are still paying dues to the Union. Obviously, this is contrary to our policy.

It will be necessary for you to discuss with these individuals, their wishes concerning their status as supervisory personnel, or their remaining a part of the Union setup. They cannot do both. If the individual does not desire to discontinue his affiliation with the Union, he certainly cannot be permitted to retain his present position, but must be transferred back to a job commensurate with his ability and attitude concerning membership in the Union.

C. W. PERELLE

Vice President in Charge of  
Production

Duplicates to:

Mr. E. H. Jones

Mr. Wm. A. Maloney

Mr. Jos. Gwinn

Mr. H. S. Martin

(Testimony of Kenneth G. Phillips.)

Mr. Harrington: That is all, you may cross examine.

Trial Examiner Hektoen: Just a minute. May I ask a question before you start, Mr. Riggs, and then we will have a short recess? [114]

This letter or copy thereof, is what Vance read to you from, is that right?

The Witness: That is right.

Trial Examiner Hektoen: All right, we will have a five minute recess before cross examination.

(A short recess was had.) [115]

#### Recross Examination

Q. (By Mr. Riggs) Mr. Phillips, since you became business agent on January 1, 1942, your entire time has been taken up with the negotiations with the company about one thing or another, hasn't it?

A. I wouldn't say my entire time with negotiations.

Q. By negotiations, I mean to cover the filing of grievances as well as negotiations.

A. Yes, I think the majority of the time.

Q. This union has no other affiliations with any other company, other than Consolidated, has it?

A. That is right.

Q. And you, as business agent, devote your entire time to Consolidated? A. That is right.

Q. When this union agreement was first entered into in 1939, were you with the union?

A. No, sir.

(Testimony of Kenneth G. Phillips.)

Q. Have you any idea of the number of employees in the plant at that time?

A. No, I haven't.

Q. Well, you wouldn't disagree with the fact that the employees have probably doubled or tripled in the last couple of years?

A. No, I think I would agree with that.

Q. And that from a rather small beginning here it has now [116] reached a phase of enormous operation?

A. That's right.

Q. With some 40,000 people employed in it?

A. That is what I understand.

Q. Do you know the number of departments that there are in it?

A. I have an approximate knowledge; they change so fast I don't know, I don't really have an opportunity to keep up with them.

Q. There are very nearly a hundred different departments, are there not?

A. 90-some odd.

Q. In both Plant No. 1 and Plant No. 2, exclusively?

A. That's right.

Q. And there have been changes in the departments from time to time as production has required changes, have there not?

A. There have been.

Q. You are aware that in December, 1941 the company passed under new management?

A. I am.

Q. With a new president and new chairman of the board, new directors, and many people of the

(Testimony of Kenneth G. Phillips.)

organization at the present time have come there in the last few months?

A. I am aware there have been many changes, yes.

Q. For instance, Mr. Wiseman isn't there any longer, is he? [117] A. No, sir.

Q. Mr. Walter Bowers is now labor relations director? A. That is right.

Q. And Mr. Persons is industrial relations director? A. Yes.

Q. And Mr. Perelle, that you spoke of, is production manager? A. Yes.

Q. Have you any idea of the number of foremen there are now in the plant?

A. No, that's something that I haven't bothered with a great deal. I haven't any idea.

Q. Would you take my word for it that there are 149 foremen and 247 assistant foremen, 47 general foremen, and 6 assistant general foremen?

Mr. Ryan: We will stipulate to that, Mr. Riggs.

Q. (By Mr. Riggs) Now, with reference to the shop committeemen, and I think you agree there were at least 270 in number, contacting that number of foremen with reference to individual's rate increases, and so forth, there is apt to be some slip-up along the line, isn't there?

A. There is apt to be, I presume; but I think the majority of our cases are handled in due form.

Q. You spoke, for instance, of 285 men who had been raised individually in the inspection department without consultation with the union. When



(Testimony of Kenneth G. Phillips.)

you brought that to the atten- [118] tion of the company, Mr. David Fleet in the relations committee, that you spoke of, that was remedied to your satisfaction, wasn't it?           A. No, sir.

Q. What happened to it?

A. At that time the company offered to withdraw the increases. We stated that the effect it created in the minds of individuals could not be corrected by either withdrawing or granting. We didn't care which way they went on the proposition.

Q. They offered to withdraw the increases, but you didn't want them withdrawn?

A. We stated we didn't care which way they went.

Q. You thought that would be a blow to the prestige of the union?

A. We thought it was done with an ulterior motive to some extent.

Q. In one department out of 96?

A. One entire department affecting 1500 people.

Q. A very large department?

A. That's right.

Q. You spoke, also, of a memorandum that was issued by Mr. Leigh after consultation with some of the company officials in the union, and you identified the memorandum as one which was signed by Mr. Laddin. Is that the one you meant? [119]

A. No—whether Mr. Laddon or Mr. Leigh signed that, I can't recall.

Q. Let me refresh your recollection and ask you if this wasn't the memorandum to all department

(Testimony of Kenneth G. Phillips.)

heads from Mr. Leigh, about this question of interim raises.

Mr. Harrington: When was that memorandum issued which you have referred to? Was that the one——

Mr. Riggs: No, this is not the one.

Mr. Harrington: May I see it, please, Mr. Riggs?

The Witness: There's another memorandum evidently.

Mr. Harrington: I am willing to stipulate this was issued April 11, Mr. Riggs, if you will so state.

Mr. Riggs: I will offer in evidence as Consolidated's Exhibit No. 1, the memorandum dated the 11th of April, 1942: To all department heads: Subject: Consulting union committeemen on interim wage changes, signed: C. P. Leigh, vice president and assistant general manager.

(Thereupon the document referred to was marked as Company's Exhibit No. 1 for identification.)

#### RESPONDENT'S EXHIBIT No. 1

Copy

No. 4

Consolidated Aircraft Corporation  
Lindbergh Field, San Diego, Calif.

11 April 1942

Memo to: All Department Heads

Subject: Consulting Union Committeemen on Interim Wage Changes

The Agreement between Aircraft Mechanics Lodge No. 1125, I. A. of M., and this Company provides

(Testimony of Kenneth G. Phillips.)

that Union committeemen are to be consulted on interim wage increases for employees represented by the Union. In discussions with representatives of the Union and the U. S. Department of Labor conciliator, it has been agreed that the following procedure will be followed in the future on all interim wage increases:

1. If a department head decides that an employee under his supervision is deserving of an interim merit increase, he is to consult the Union committeeman representing the employees in his department. The committeeman shall investigate the work that the man is doing and promptly advise the foreman whether there is objection to the proposed increase. If the foreman and the committeeman agree to the proposed increase, the Change of Status slip is to be forwarded to the Labor Relations Department in the regular manner, after signature by the foreman and initiating on the reverse side by the committeeman. Otherwise, the foreman and the committeeman are to fill out, in quadruplicate, a wage review form; one copy to remain with the foreman, one copy to be retained by the committeeman, one copy to be forwarded by the foreman to the Labor Relations Department, and one copy to be forwarded by the committeeman to the general offices of the Union.

2. Upon receipt of the wage review form, the cases will be handled by the General Wage Committee, which Committee will meet and hand down a decision within five days after the case has been filed. In the event the General Wage Committee

(Testimony of Kenneth G. Phillips.)

is unable to reach an agreement, the matter shall be submitted to arbitration as provided for in Article 23 of the Agreement.

The above procedure shall also be followed before any wage decreases are put into effect.

S/ C. T. LEIGH

Vice President and Assistant  
General Manager

DGF:mf

(Copy)

Consolidated Aircraft Corporation  
Lindbergh Field, San Diego, Calif.

Interim Wage Recommendation

Plant No.\_\_\_\_\_ Date\_\_\_\_\_

Employee's Name\_\_\_\_\_ Dept.\_\_\_\_\_

Clock No.\_\_\_\_\_ Shift\_\_\_\_\_ Present Base

Rate\_\_\_\_\_ Proposed Increase\_\_\_\_\_ Classification

Foreman's Comments:

Committeeman's Comments:

Signed:\_\_\_\_\_ Signed:\_\_\_\_\_

Foreman

Committeeman

Q. (By Mr. Riggs) You were familiar with this memorandum shortly after it was issued, or prior to its issuance?

A. I don't believe I have seen this memorandum. The memorandum we drew up at that conference was a different memorandum, much shorter.

(Testimony of Kenneth G. Phillips.)

Mr. Harrington: Pardon me; I believe this is the one [120] you refer to.

Q. (By Mr. Riggs) Is this the memorandum you are referring to, Board's Exhibit No. 7, dated January 22, 1942, signed by I. M. Laddon?

A. That is right. That is the one we formulated in his office.

Q. This doesn't say anything about consulting committeemen, does it? Read it, let me see.

A. Yes; after consulting foremen, the union committeemen in the department concerned. It's in parenthesis right in the center. That is part of our current union agreement.

Q. That is a quotation from the agreement; but Mr. Laddon's memorandum of January 22 doesn't state that that procedure shall be followed, does it? It simply states where the employee merits an increase he will get it.

A. That is right; but he is not to be given that increase unless it is stipulated to by the committeemen.

Q. Was this memorandum satisfactory to the union?

A. I think I am right on this now.

Q. Let me refresh your recollection, Mr. Phillips. There has been a previous memorandum issued some time late in 1941 to the effect—I don't know whether it came after Pearl Harbor or before—that there wouldn't be any interim increases, but only increases granted by the wage review board. [121]

A. That is right.

Q. And the union protested about that, and the



(Testimony of Kenneth C. Phillips.)

company withdrew its position and arranged that there should be interim increases upon merit as recommended by the foremen?

A. That is right; that was after this conference.

Mr. Harrington: Pardon me, Mr. Riggs. I have a copy of that, if you wish it.

Mr. Riggs: I don't think it is material.

Mr. Harrington: I don't either. I thought if you wanted it, I have it.

Q. (By Mr. Riggs) The union wasn't satisfied after that memorandum, so they had another consultation with Mr. Leigh and issued this memorandum of April 11, Company's Exhibit No. 1?

A. That memorandum there is not the memorandum that came out of this general conference. That is all I can say.

Q. Whether it came out of the general conference or not, doesn't that memorandum completely satisfy all the union's complaints on this interim agreement business?

A. This came out much later.

Q. Answer my question. Doesn't that satisfy all the union's grievances about the increases of interim wages, after consultation with the committeemen?

A. If this is followed in the future, it will suffice; but it has nothing to do with those things, that have been [122] prior to the issues there.

Q. In the past? A. That is right.

Q. Can you state of your own knowledge any case

(Testimony of Kenneth G. Phillips.)

at the present time where that procedure outlined by Mr. Leigh is not being followed?

A. No. I think the company is following it very closely at the present time.

Q. So that the substance of your grievance about this is that there was a time when the company didn't want to grant any interim increases, withdrew its position on that, and then you claim that sometimes, occasionally, as you were told by Mr. Lewis, there were interim increases,—

A. I prefer to answer that in my own words. I don't believe the words you are trying to put in my mouth are correct.

Q. I am not trying to put words in your mouth. I am merely trying to summarize the situation as to what the union grievance is about the wage increases at the present time.

A. I will answer in my own words. I prefer to do that. The union and the company had a stipulation or agreement which they were supposed to follow and which they did not follow, and due to the fact that they did not follow it in the past, that caused certain conditions to arise in the shop with our union people that were not in conformity with the agreement. Therefore, they breached the agreement. That [123] has been done in the past.

This should satisfy us for the future, on all future cases, because I don't think there will be any more efforts not adhered to.

Q. In any one of these particular interim agreements, did you resort to the procedure which is set

(Testimony of Kenneth G. Phillips.)

out for yourselves, in the filing of agreements, in going through the various boards that consider grievances?

A. No, we did not. I think I testified as to how we handled those cases.

Q. With reference to the discharge of Mr. Mergan and Mr. Fisher, Mr. Mergan's case, without going into the merits of it, was another one of those cases where everybody concerned lost his temper, wasn't it?

A. I don't believe in Mr. Mergan's case that that was the case, no.

Q. It is a fact, though, that both Mergan's and Fisher's cases became a subject of conferences with Mr. William R. Walsh, the Regional Director, here in San Diego?

A. We had a meeting, yes, at which I attended, at which Mr. Walsh came down and stated the Board's opinion.

Q. And we sat all day on those two cases, and went over affidavits that had been signed, pro and con?

A. I believe we sat; I don't believe it was all day, but we were on the subject, yes. [124]

Q. The union never took Mr. Mergan's case either to a grievance, or doesn't make it the subject of a grievance in this proceeding, does it?

A. That is what I understand, no.

Q. With reference to Mergan and Fisher, isn't it a fact that the company's officials sat down and

(Testimony of Kenneth G. Phillips.)

talked with you about these cases whenever you wanted?      A. It is a fact they talked.

Q. They thought they were right in their position and that there had been a violation of the rules by Mr. Fisher and Mr. Mergan also?

A. Yes, but we didn't feel they had an open mind on the subject.

Q. You felt the company didn't have an open mind on the subject, but the union did have an open mind?      A. That's quite possible.

Q. In other words, they didn't refuse to negotiate or talk to you, but each side stuck to his position, you that the men should be reinstated, and the company felt they should not?

A. As I testified before, there was very little conversation on these two gentlemen, because the company did not prefer to discuss it too long.

Q. Hadn't the company given to Mr. Walsh and to the union copies of affidavits of all the employees that had anything [125] to do with either one of the cases?

A. I presume the company might have given it to Mr. Walsh, but not to our organization.

Q. You heard all the summaries at the meeting with Mr. Walsh?

A. No, sir. I didn't hear all the affidavits summarized; in Mr. Mergan's case there was no summary whatsoever.

Q. But your idea of collective bargaining with the company is that the company has to agree with your position?

(Testimony of Kenneth G. Phillips.)

Mr. Ryan: I object to that as immaterial.

Trial Examiner Hektoen: Sustained.

Q. (By Mr. Riggs) When did the company refuse to talk further with you about the Fisher case at any time?

A. The company's answer when the first question was put to them was not in an effort to try to get all of the subject matter out for debate, but was merely reiterating the stand they had taken before, and they stated in very abrupt terminology the fact that the company was resting on the fact that they felt justified in the discharge, and they did not care to discuss it any further.

Q. Did you file a grievance on the Fisher case?

A. No, I did not file a grievance on the Fisher case. I might state further: It was not up to me to file that grievance.

Q. I don't think I have got in quite clear in my mind what [126] the grievance is about in regard to crane operators. Will you tell me that again?

A. Yes, I can go through it. You might read the record, but I will review it, if you like.

Q. You agreed on it in 1941?

A. I was a member of the wage board in 1941, which started in April, 1941. During those conferences, or during those board meetings, we took up the subject of crane operators.

We negotiated the subject, the company's side and the union's side, and we arrived at a solution as to the rate of pay to be paid to all crane operators. As a matter of fact, on the payroll at that time



(Testimony of Kenneth G. Phillips.)

that amount was 75 cents per hour, and all those crane operators were brought to that rate of 75 cents an hour.

Following that we had a 5 cent blanket increase plus 13 cents blanket increase, which brought those men to 93 cents base rate per hour.

Therefore, if those men were receiving 93 cents and others who had hired in after the blanket increases, were not brought up to that rate, we felt automatic increases which brought the average rate, or the rate of pay, the basic rate of pay up to 93 cents an hour should be given; and we felt that rate was established through the negotiations subsequent to the 13 and 5.

Q. These people that had entered the employ of the company [127] came in subsequent to that automatic increase of 5 and 13? A. Yes.

Q. In other words, your position was that although a man came in subsequent to the automatic increase of 5 and 13, that should be retroactive? He ought to get that increase even though he wasn't in the employ of the company at the time it was granted? A. Not retroactively.

Q. You thought he ought to get it even though he was not in the employ of the company at that time?

A. That is right. We believed that was the rate established through our negotiations.

Q. Was that ever made a subject of grievance?

A. That was never made a subject of grievance; but as I stated before, it was taken up by the con-

(Testimony of Kenneth G. Phillips.)

ciliator. We felt it could be solved amicably at that conference.

Q. The conciliator was Mr. Malcolm, was he not?

A. That is right.

Q. From the Los Angeles office of the National Labor Relations Board?

A. No, I think the National Conciliation Service.

Mr. Harrington: The Department of Labor, Mr. Riggs.

Q. (By Mr. Riggs) There were a great many things taken up with Mr. Malcolm, and some were settled to the satisfaction of the union and some were not, and on others, no conclusion [128] was reached at all.

A. That is right.

Q. Was this crane operator wage matter one of the things which no conclusion was reached on?

A. We felt there could be a conclusion, but the company's position on the matter was not one where they were inclined to reach a settlement.

Q. The matter was discussed with Mr. Malcolm, pro and con, and the company stated its position and you stated yours?

A. Yes. If I would be in a position to tell the conciliator's opinion of it, it might be different; but I don't think we should.

Trial Examiner Hektoen: At least nothing has happened. Is that right?

The Witness: That is right.

Q. (By Trial Examiner Hektoen) What happens now? When a new crane operator is hired, he gets 75 cents?

A. He gets 60 cents.

(Testimony of Kenneth G. Phillips.)

Q. Anyway, he doesn't get 93 cents?

A. No.

Q. And you think he ought to?

A. We thought we negotiated the rate of pay properly.

Q. (By Mr. Riggs) You believe that everybody who becomes a crane operator from the time he is employed should get the same rate of pay? [129]

A. It is our understanding the company is very anxious to correct any inequalities in pay for people doing like work. Therefore, we contend that the man who does the same job and is getting 93 cents and the one who is doing a like job getting 60 cents is not getting proper pay.

Q. Are you sure about that, to your own knowledge, that people now employed as crane operators are getting different rates of pay?

A. I think the crane operators, I understand the wage is 60 to 75 cents, which we determined for a period of time in which the employee learns the work; and we would never contend, and have never contended during that three months period that he goes from 60 to 75 cents, that he has to be paid any more. However, after the termination of the three months period, and if he has classified, then, is properly classified as a crane operator, we feel justified in asking 93 cents an hour for him.

Q. This matter you spoke of with Mr. Perelle about the changes of pay from the hourly pay basis to salary, you didn't have the list of the people who were changed, did you?

(Testimony of Kenneth G. Phillips.)

A. No, I don't have that list; I never saw the list, as a matter of fact.

Q. Do you know how many there were?

A. I don't. [130]

Q. Do you know whether there were more than 10?

A. No, I couldn't specify as to number; 5, 10 or how many.

Q. Do you know when they had been transferred to salary?

A. No, I don't know that.

Q. Take Loretta Murphy, who is the planning clerk. She was transferred to salary October 1, 1940. She has been on salary since that time, and has since been paying dues to the union. Do you know that?

A. Yes. I happen to know Loretta Murphy very well. She is quite satisfied, however.

Q. These other people that I have here: Do you know—well, take M. J. Davis, who is another stenographer; she has been continuously on salary since she was hired on salary on October 1, 1940, and is still paying her dues to the union. Do you know her?

A. No, I don't know Miss Davis.

Q. Do you know the extensive operations of the company with reference to payroll deductions?

A. I have had no opportunity to know the extensive operations.

Q. You take an individual employee; you know the wages have to be calculated at a certain amount?

(Testimony of Kenneth G. Phillips.)

A. That is right.

Q. Then, you have the union dues deductions, if they belong to the union? [131] A. Yes.

Q. You have the Old Age Pensions, and so forth deducted, and also you have, in buying any defense bonds, they are also deducted?

A. That is true.

Q. You know all those things make for a great deal of multiplication of accounting and a number of clerks? Don't they?

A. I presume they do.

Q. Isn't that the reason the company would be like to be rid of some of this accounting, as much as possible?

Mr. Ryan: I object to the question; he doesn't know that.

Trial Examiner Hekteon: What accounting.

Mr. Riggs: I mean: All the deduction of all these various items.

Trial Examiner Hekteon: What is the purpose of the question? To show it is likely the company would be delighted not to have to deduct the dues any more?

Mr. Riggs: I suppose they would.

Trial Examiner Hekteon: All right.

Mr. Riggs: They have agreed to do it, and they are doing it.

Trial Examiner Hekteon: What is his opinion worth?

Mr. Riggs: Nothing. [132]



(Testimony of Kenneth G. Phillips.)

The Witness: Not much.

Q. (By Mr. Riggs): Now, with reference to the three shifts, that matter was discussed a great deal with the union, was it not?

A. The matter was not discussed at any great length. It was discussed one day, if I recall it, yes.

Q. Do you know any of the reasons with reference to the change to three shifts?

A. Well, yes.

Q. What did the company say was the reason for it?

A. The reason for the three shift operations was in an effort to get more production and to keep the plant continuously in operation.

Q. The work week defined in the contract is from Monday to Friday, is it not?

A. That is right, sir.

Q. So that Saturday would be the sixth day?

A. That is right.

Q. This third shift was to begin at 11:00 o'clock p. m., was it not, and work for 6½ hours and receive eight hours' pay?

A. I believe it was to begin at midnight. I might be in error on that and subject to correction.

Q. I think you are wrong. I think somebody will know better than I do, but I think it is 11:00 o'clock. At any [133] rate, they were to receive eight hours' pay for six and one-half hours' work?

A. Yes.

Q. That was all paid for at time and a half, was it not?

(Testimony of Kenneth G. Phillips.)

A. That is right.

Q. And the union claimed because the sixth day of the week extended over to Sunday, that it was really a Sunday operation and they should get double time?

A. That was our position.

Q. That was the issue between yourself and the company, was it not?      A. Yes.

Q. Was that made the subject of grievance?

A. No, that was not made the subject of grievance. That was also taken up, as I stated in my testimony prior to this, in a general conference, and then, also, before the conciliator.

Q. Are you aware that the heads of both the great labor organizations in the company have signified their idea there should be no labor paid for on double time on Sunday?

A. No, I am not aware of that.

Q. You never heard of the letters and speeches that have been made on that subject?

Mr. Ryan: I object to that as immaterial.

Trial Examiner Hektoen: You may answer. Well, he has [134] already answered. He is not aware.

Q. (By Mr. Riggs): The company's position was, as I understand it, that they regarded this as the sixth day, under the contract?

A. That's right.

Q. And it should be paid for at time and a half?

A. That's right.

(Testimony of Kenneth G. Phillips.)

Q. And your position was, whether it came on Sunday, as it came on Sunday, it should be paid in double time?

A. Yes, I think the mathematics would figure that out, that it is the seventh day.

Q. They didn't work seven consecutive shifts, did they?

A. Now that I couldn't answer, sir. I couldn't answer that at all, because I don't know just exactly what shifts of those men involved were. I presume if it were the seventh consecutive day those people would start their regular shift, would be starting on Monday. As a matter of fact, I think it is in our agreement that the regular working schedule will be Monday through Friday.

Q. And that the work week begins on Monday?

A. The work week begins on Monday.

Q. Therefore, all swing shifts would end on Saturday, normally, would it not, except for this sixth day of the third shift, which ran over from Saturday night to Sunday?

A. As I understand it, if you start on Monday and work [135] through seven consecutive days, you are working on Sundays. Likewise, if the shift begins on Monday and the company does not start until Tuesday, the shift begins on Monday, because it is on the agreement. If they start Tuesday and end on Sunday, the work week as established by agreement would be six days.

Q. The Third shift, after it goes off duty Sunday, doesn't come on until Monday at 11:00?

(Testimony of Kenneth G. Phillips.)

A. No, it wouldn't. They have a day of rest, as I understand it.

Q. With reference to the job classifications, which you say you took up with Mr. Vance and others——

A. Job classifications?

Q. Maybe my note is wrong. You took them up with whom?

A. With everyone concerned; with the top executives on down to the lesser lights.

Q. What do you mean by top executives?

A. Well, we have stated in our general conference, even with Mr. Woodhead, the fact that the classifications have been put into effect without our approval, and we have taken that up with the labor relations department, and we have not as yet received a satisfactory answer on it.

Q. In that connection, weren't you told repeatedly the company only used these classifications as a guide to employment in the wage review board?

[136]

A. Yes, that was the company's position, that they were using this as a guide. They said they must have some barometer to use, or some rule for their guidance.

Q. Did you object to their having some guidance? A. No, we didn't object.

Q. Let me finish: In the plant, where there are probably several thousand different kinds of jobs?

A. We didn't object to their guidance, provided

(Testimony of Kenneth G. Phillips.)

they arrived at that guidance through proper procedure.

Q. You have got procedure there in which you have agreed to review the rate of the individual from time to time, and that's been carried out, hasn't it?

A. No. The company is refusing to negotiate for many people, stating that they have already applied the top rate for the type of work they are doing. Therefore, they are refusing to negotiate for those individuals because they have arrived at the top of the company rate as they have established it, without negotiating rates through our organization.

Q. But the rate of the individual, is that negotiated by the wage review board?

A. No, sir.

Q. If the board doesn't agree you have the opportunity for appeal, with reference to any particular individual?

A. The board has refused to negotiate with those individuals [137] for the top rate established.

Q. That doesn't deprive you of the right to appeal and then go to arbitration?

A. It does not deny us that right.

Q. Has the union ever gone to a higher appeal board in arbitration on this subject?

A. You mean with regard to each individual case that comes up, and to arbitrate their case? We would be here for 10 years.



(Testimony of Kenneth G. Phillips.)

Q. That's what the company does almost continuously, day in and day out at the present time, doesn't it? Don't you have several members of the union and several members of the company who are engaged almost continuously daily in these wage rate reviews that come around every six months?

A. Do you want me to give the story as to how the top rates are handled?

Q. No. As I understand it, the union and the company are now engaged in negotiation on wages through the wage review board.

A. The individual is reviewed, and if that individual is receiving a rate of pay that we feel is not commensurate with the man's abilities, and we ask for more money than the company figures he is entitled to, due to the fact that they have established rates which we are not in accord with, then the company is very adamant and states: "That is all we will [138] pay, period." Which we don't construe in any sense of the word as negotiations.

Q. (By Trial Examiner Hektoen) Then they say: That is all they will pay period, because, inferentially, he has the top of the classification.

A. As the company has applied it.

Q. He has been put in by a unilateral act of the company, and that is what you do not like?

A. Yes.

Q. (By Mr. Riggs) How much time is spent in the wage review board by members of the union at the present time?

(Testimony of Kenneth G. Phillips.)

A. That is a moot question of which I have no knowledge. I am not in those wage boards. I have other work to do. You mean on the individual case, or over all?

Q. I mean generally in the plant on this question of review of individual wages. Do you know whether the board sits almost continuously, day after day, or once a week?

A. Yes, it sits continuously. We have got a lot of people to review.

Q. There are a great many people receiving wage increases under those reviews of hire, are there not?

A. Yes, there are a lot of people who are receiving increases. However, those increases are gauged by the company's standards which, of necessity, or whether we like them or not, are forced upon us. [139]

Mr. Riggs: I have nothing further.

Trial Examiner Hektoen: Anything further, Mr. Harrington?

Mr. Harrington: Yes.

#### Redirect Examination

Q. (By Mr. Harrington) In your position as union committeeman do you handle the entire plant or a certain number of employees, or what?

A. I have certain groups, that is, certain departments which I handle and I handle only, unless it is something that comes up if I am not there to handle it.

(Testimony of Kenneth G. Phillips.)

Q. Did that memorandum of April 11, Respondent's Exhibit 1, I believe, did that satisfy the past grievances of the union as to these increases?

A. No. That was only for future cases. We couldn't correct the condition that the company had already done these things without our knowledge, and the impression that it created in the minds of our union people.

Q. You have stated that the union didn't take Mergan's case or Fisher's case any further after you had contacted Wiseman, I believe. Why didn't you take it any further?

A. Because if the company says: This is it, we felt they weren't actually negotiating. We went in and talked to them. We started out by, say, we were talking about Fisher; we were talking about Mergan; they said; The company is not going to [140] discuss it any further. We are not rehiring them. That isn't negotiating. We didn't feel we had any chance in taking it up further. We were just wasting time.

Q. Now, as to this job classification, was that used as a guide only, or was it put into practice?

A. It was put into practice.

Q. And the union has protested the company's use of that?

A. We have protested vigorously.

Q. How many people in the plant? I believe you testified around 40,000.

A. Approximately.

Mr. Riggs: Approximately.

(Testimony of Kenneth G. Phillips.)

Q. (By Mr. Harrington) And under the present system I believe you stated that it would involve a terrific task, reviewing each individual. Is that correct?

A. It would be an impossible task to go over all of the individual top rates established on people and to try to override the company's decision and take each one to arbitration.

Q. Is that the alternative left to the union now, in light of the company's refusal to negotiate these classifications with the union?

A. That is right.

Mr. Harrington: I have no further questions.

[141]

#### Recross Examination

Q. (By Mr. Riggs) It would take only one case to go to arbitration to establish a principle in some of the matters.

A. Each individual case is a matter for arbitration.

Q. Take these two men discharged: You say you didn't think there was any use to go any further, in spite of the fact that the contract provides for impartial arbitration between two people represented by the union and two representing the company and the fifth to be chosen by the War Labor Board?

A. That is right.

Q. We did have one arbitration with Mr. Robert Lerner of San Francisco.

A. That is right. How long did it take us to get that one case before the arbitrator?

(Testimony of Kenneth G. Phillips.)

Q. When we got it before him we settled it, didn't we? A. That is right.

Q. And nobody had any criticism of his fairness, did they? A. No, not in that case.

Trial Examiner Hektoen: Anything further?

Mr. Riggs: No.

Q. (By Trial Examiner Hektoen) What is the conciliator's name again? A. Harry Malcolm.

Q. When did he turn up?

A. During the month of April we had quite a few conferences [142] with him.

Q. Is he still here? I got the impression you saw him practically every day. A. Oh, no.

Q. You had a series of conferences during April? A. Yes.

Q. And you refer to general conferences?

A. Our general conferences consisted of conferences held mainly during the months of January and February in the parts plant, with the labor relations committee of the company.

Q. I see.

A. We were negotiating some changes in the agreement at that time, also.

Q. (By Mr. Riggs) May I refresh your recollection, Mr. Phillips, that Mr. Malcolm was down here on March 30, and that there was an agenda of some 21 different matters that were taken up before him?

A. If necessary, you could refresh my memory, but it isn't necessary. I know about it.

Q. That is the fact, isn't it?



(Testimony of Kenneth G. Phillips.)

A. That is right.

Q. That was on the 30th of March?

A. Was it the 30th or a few days subsequent to that?

Trial Examiner Hektoen: What difference does it make?

The Witness: Right around the latter part of March. [143]

Q. (By Trial Examiner Hektoen) Mr. Phillips, what is the significance of this salaried employee being in the union? I have read the agreement, but some of them continued to be union members. Correct? A. Yes.

Q. And that's all right with the unions, of course, and it seems to be all right with everybody. A. It's their privilege.

Q. The only significance of it is that in this one case the company evidently sent around a memorandum to them to get them out of the union. Is that right?

A. That's the general practice; not only in this case.

Q. That is a general practice?

A. Of the company.

Mr. Riggs: Wait a minute.

Q. (By Mr. Riggs) The general practice is: If a person is changed from an hourly pay to a salary that the labor relations committee takes it up with the union and ask for their consent to have him terminated with a union cut-off of dues?

A. Yes.

(Testimony of Kenneth G. Phillips.)

Q. Sometimes the union consents and sometimes they do not?

A. Under no cases do we consent as long as that person is working in the trade. Further, we think it is a problem for the individual, and not a problem for the company. We think it is none of their business. [144]

Q. Anyone on salary may remain with the union if they want to?           A. Yes.

Q. (By Trial Examiner Hektoen) That third shift works six and one-half hours and get eight hours' pay?           A. That is right.

Q. That is a differential given the third shift. Is that right?

A. That is right. I might state further on this, if you would like to clear it up, the reason for taking the people off from hourly to salary, that in that they take these people who are already on hourly and don't change the job status at all—just take them off and put them on salary—whole departments, we feel that is a matter for negotiation, also, rather than an arbitrary act by the company. [145]

Trial Examiner Hektoen: Now, in reference to Mergen and Fisher, you said that you later talked to Wiseman. That was after the first conversation in December?

The Witness: That is right.

Trial Examiner Hektoen: And he indicated that the company would not change its position with reference to either of them?

(Testimony of Kenneth G. Phillips.)

The Witness: That is right.

Trial Examiner Hektoen: And that he wouldn't discuss it too lengthily. Now, is that what gave you the idea that it would be useless to go on with the grievance procedure?

The Witness: Well, the discussion was merely his statement. That wasn't a discussion.

Trial Examiner Hektoen: He wouldn't discuss it too lengthily?

The Witness: By "lengthy" I mean that was the company's position and they were very adamant in their position.

Trial Examiner Hektoen: What did he say? I would rather have their conversations than your conclusions.

The Witness: Mr. Wiseman stated, and I think that is a matter of record, that the position was still that they were justified in the discharge of Mr. Mergen and they would not consider him any further in an effort to put him back in his position in the plant.

Trial Examiner Hektoen: Was that the first time you talked to Wiseman about it? [146]

The Witness: That was the first time I talked to Wiseman about it, yes.

Trial Examiner Hektoen: Those are all the questions I have. Is there anything more?

Q. (By Mr. Riggs) Did he suggest you might go to arbitration on it?

A. No, he made no suggestion relative to that that I recall.

Q. Well, you knew that anyway?

(Testimony of Kenneth G. Phillips.)

A. Well, I certainly know the agreement, yes.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Anything further?

Mr. Harrington: Yes.

### Redirect Examination

Q. (By Mr. Harrington) As to Mergen and Fisher, isn't it the joint responsibility of both parties to seek arbitration or is the burden of that thrown on the union alone?

A. Well, it is a joint responsibility of both parties inasmuch as it don't state which party is to take the case to arbitration, and——

Q. And why did you think that the matter of Mergen and Fisher ended with Wiseman when you talked to Wiseman?

A. Well, here was the thing. We had just talked to—we had a general conference with Mr. Woodhead, Mr. Laddon, the Labor Relations Committee, at which time Mr. Laddon and Mr. Woodhead stated that Mr. Fleet, Mr. Bowers and Mr. Wiseman [147] were to be the three officials of the Labor Relations Department which were to give us the final decision on any matters pertaining to labor relations.

We went to Mr. Wiseman and we received in no uncertain terms his final decision and there we were.

Q. Well, this procedure of the company asking the consent of the union to stop checkoff of people who were moved to hourly rate basis, that does not involve the consent—giving the company consent

(Testimony of Kenneth G. Phillips.)

to ask those people to drop out of the union, does it?

A. Certainly not, because we feel that the company has no right to say who are—who may not belong to the union in any case.

Q. It is just a consent to stop checking off their dues deductions?      A. That is right.

Q. I believe there has been—that this wage review board which we have discussed has not been described in any detail for the record. Just what does that board consist of?

A. Well, that board consists of, first, they have a general board that consists of three men from the union and three from the company, of which one man on the union's panel would be the committeeman, and this committeeman comes in with two members of the union and sets with management, and they discuss in the presence of the foreman, who is a member [148] of that company panel, each individual and they are to review that individual as to the merits that he has on the job he is performing, and give him an increase of pay subsequent to the shown merits on the job. Then if that committee fails to agree then they send that to another board which is the master board consisting of two members—three members of the union and three from the company, and they spend five days reviewing that individual and if at the end of those five days they are not able to affect an agreement, then we go into the arbitration proceeding as provided in Section 23 of the union



(Testimony of Kenneth G. Phillips.)

agreement, in an effort to settle the problem at hand.

Mr. Harrington: I have no further questions.

Recross Examination

Q. (By Mr. Riggs) Well, just one thing. When people are transferred into the position of confidential clerk, or something like that, it would bring them outside the pale of the union and then they are permitted to resign, are they not?

A. Well, I don't think that we recognize the company's classification of "confidential clerk," and I think that if that is an issue that we could take up separately, we probably never would agree on it also.

Mr. Riggs: That is all.

Trial Examiner Hektoen: All right, Mr. Phillips, thank you. [149]

(Witness excused.)

Trial Examiner Hektoen: The agreement is in evidence, is it not, Mr. Harrington, that agreement that now obtains?

Mr. Harrington: Yes. I believe the changes are marked in that exhibit.

Trial Examiner Hektoen: You may proceed.

Mr. Harrington: Mr. Wilkerson.

DON D. WILKERSON,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Harrington) What is your name?

A. Don D. Wilkerson.

Q. And your address? A. 4233 - 33rd.

Q. Are you an employee of the company?

A. No.

Q. Have you been?

A. I have in the past; yes, sir.

Q. Are you a member of the union?

A. I am.

Q. And do you occupy any official position?

A. Business representative. [150]

Q. How long have you been in that position?

A. Since January 1st.

Q. Were you among those present in Mr. Lari-more's office on April 15th when Williamson's case was discussed? A. I was.

Q. Were you here this morning when Williamson testified? A. I was.

Q. You heard his testimony, did you?

A. I did.

Q. Is it correct?

Mr. Riggs: I object to that.

Mr. Harrington: I was just trying to take a short cut.

Mr. Riggs: Ask him to summarize it.

Mr. Harrington: I will do that if you wish. I thought I would take a short cut.

(Testimony of Don D. Wilkerson.)

Q. (By Mr. Harrington) Can you relate the discussion that took place at that time?

A. On April 15th at possibly 10 o'clock in the morning Mr. Williamson came to my office.

Q. Is it Williams or Williamson?

A. Williamson. Williamson came to my office at 1054 Third Avenue and told me that he had just been discharged from the Consolidated Aircraft Company.

Mr. Williamson related to me that——

Trial Examiner Hektoen: Let us get down to Larimore's [151] office.

Mr. Harrington: Yes.

Trial Examiner Hektoen: What happened there?

The Witness: You have got me confused in this respect: He wanted me to convey what Mr. Williamson had said this morning. Do you want to carry it right from Larimore's office on?

Q. (By Mr. Harrington) Give your version of what occurred at the meeting that evening.

A. In Mr. Larimore's office was Mr. Brown, Roy Brown, Mr. Williamson, Mr. Wiseman, Mr. Larimore, Mr. Milton Hangen, Mr. Eastin and Hank Legal.

I had previously taken a grievance from Mr. Williamson in my office that morning.

Upon arriving at Mr. Larimore's office with Mr. Williamson, Mr. Roy Brown, I presented a grievance to Mr. Larimore. I read the grievance. At the time he called in three parties—the three parties I mentioned, Hangen, Eastin and Hank Legal.

(Testimony of Don D. Wilkerson.)

There was much discussion there pro and con as to why—leading up to Williamson's discharge.

As I understood it a man by the name of Brown had went to Mr. Hangen's office for the purpose of receiving that insurance policy.

A week previous a man had refused to work under another lead man. In due course we talked to Mr. Hangen. Mr. [152] Hangen asked Mr. Brown about the events which led up to Mr. Hangen telling him that he was going to have to transfer him to work for Mr. Ewert. The man told Mr. Hangen at that time that he would quit before he would go to work for Mr. Ewert.

That was previous to the dinner hour, I believe. I believe they eat from 7:30 to 8:00, so he said he was going to quit at 9:00 o'clock. The result was than Hangen encouraged the man to work through until 11:00 o'clock, at which time he discharged the man.

Mr. Williamson being a committee man in that department, during the dinner hour the man had came to Mr. Williamson and told him what had happened.

Mr. Riggs: Now, wait a minute. What is this? Is this the conversation that took place on April 15th in Mr. Larimore's office?

The Witness: That's what you're asking for, isn't it?

Mr. Riggs: But I want you to say what each one said.

Mr. Harrington: Describe the conversation as

(Testimony of Don D. Wilkerson.)

best you remember it. What was said and who said it. This was concerning Williamson's discharge. That is the meeting I am referring to.

A. It was a three hour conversation there and I don't recollect all that was said. There was much said. It would be impossible for me to remember statements pro and con.

Q. (By Mr. Harrington) I realize that. [153]

A. —during that meeting. On the company's part there was five men talking at one time, so I don't think that I could tell you word for word detailed conversations.

Q. I don't expect that. I just want your best recollection now.

Mr. Riggs: May I speak off the record a minute.

Trial Examiner Hektoen: Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Q. (By Mr. Harrington): Mr. Wilkerson, did you attend a meeting between the company and the union in your official capacity, which has been testified to concerning these individual increases?

A. I did.

Q. When were those meetings held?

A. Between January and March.

Q. And what occurred?

A. At that time the union had submitted previous to that 12 grievances, to Mr. Wiseman, in regard to men that had been hired out of the state,



(Testimony of Don D. Wilkerson.)

who had, upon arrival in San Diego, and after starting to work, the foreman in the individual departments had seen fit to cut their wages. That was what the grievance consisted of—all 12 of them. They were later carried in to the general conferences held in the Parts Plant at which time no agreement was reached. [154]

Q. These men you say were hired outside of the State?

A. Outside of the State of California, yes.

Q. How were they hired?

A. They were hired by representatives of the Consolidated Aircraft Company. At the time of their hire they were given letters stating the occupations that they were to fill upon their arrival here, the amount of money that they was to receive for these occupations upon going to work.

Some of them were cut before they went to work—their hourly rate was cut. Some of them had worked two or three weeks and some of them six weeks, and some of them three months.

There was originally 12 of them but by the time we got into the general conference there was 16. At that time in the general conference——

Q. How did these come to your attention?

A. The individual men came to the union office and complained that their wages had been cut. I in turn filled out grievances on them.

Q. And you presented those grievances and filed them with the company, is that right?

A. To Mr. Wiseman.

(Testimony of Don D. Wilkerson.)

Mr. Harrington: May we go off the record?

Trial Examiner Hektoen: Off the record.

(Discussion off the record.) [155]

Trial Examiner Hektoen: On the record.

Q. (By Mr. Harrington): When I asked that question I was referring to those individual increases and not to these out of state hires.

A. You meant the interim increases?

Q. That is right. That is what I was referring to and my question, as I recall it, was did you attend a meeting between the company and the union in which those interim wage increases were discussed?

A. I attended the original meeting with Mr. Laddon and Mr. Woodhead, and also one meeting in the presence of Mr. Lee.

Q. And can you relate what occurred in those meetings, Mr. Wilkerson?

A. We had went to the plant—we called Mr. Lee and made an appointment. I might go back and say that in the original meeting with Mr. Woodhead and Mr. Laddon—

Q. When was this?

A. This was the first part of January. Mr. Laddon and Mr. Woodhead—we brought to their attention that a memorandum had went out in the plant—possibly the foremen had read it and had put it into force and that they were to cease all interim increases, and we figured that it was outside of the contract—a violation of the contract.

(Testimony of Don D. Wilkerson.)

Mr. Woodhead in turn said that he would send a memo out contradicting the one of, I believe, February—no, [156] December it was—it was out in December, and following that, the next day, that evening, around 4:00 o'clock we got ahold—they said that the memo would come out immediately, or it might have been two days later—I don't know, and we went to Mr. Lee's office and at that time the union committee and Mr. Lee worked out this other memo to be sent out to all of the foremen telling them that they would follow the contract in regard to interim increases.

Trial Examiner Hektoen: Is that Board's Exhibit 7?

Mr. Harrington: I was just going to inquire about that.

Q. I will show you Board's Exhibit 7. Is that the memo you referred to (handing exhibit to the witness)?

A. Yes, that is it.

Q. It is, you say? A. Yes.

Q. Did you attend any other conferences concerning that matter after that memo was published?

A. No. I attended the conferences, but they weren't *pretending* to my department and from time to time when that issue in the conference would come up possibly it would be turned over to the representative that was involved concerning his department.

Q. Now, on these people hired outside of the

(Testimony of Don D. Wilkerson.)

state, were those grievances presented to you? [157]

A. They were.

Q. And when were they presented to you?

A. Between January and March.

Q. Of what year? A. This year.

Q. And what were those grievances about?

A. In regard to wages.

Q. What were the circumstances?

A. Why, it seems as though men were hired in the east at a stipulated rate and on their arrival in San Diego they either couldn't find the job in the plant that they had hired them for or else in some cases they had put them on a job and told them they had misrepresented themselves and therefore they would have to cut their wages.

Q. After these grievances were filed with you what did you do about them?

A. I in turn presented them to Mr. Wiseman.

Q. And then what was done about them?

A. No action was taken on them.

Q. Did you do anything further about this matter?

A. After Mr. Wiseman's refusal to act on them we had had a previous agreement with the Labor Relations Department that all subjects would be referred to Dave Fleet, the chairman.

Q. Now, you say Wiseman refused to act on them. Can you tell me just what he did or what he said? [158]

A. He said that these men had misrepresented themselves and as far as the company was con-

(Testimony of Don D. Wilkerson.)

cerned they were paying them what they were worth.

Q. Was there any other conversation with Wiseman about that matter?

A. That was the meat of the conversation. There was much conversation pro and con.

I in turn told them that it was the union's stand that the company had dealt with the men directly without going to the bargaining agents or consulting the committee-man before cutting the man's wages.

Q. And what then was done about those cases?

A. They were referred to the general committee.

Q. What is the general committee composed of?

A. At that time Mr. Wiseman, Mr. Bowers and Mr. Dave Fleet as chairman. On the union's side it was Mr. Roy Brown, Mr. Perry, Mr. Phillips, Mr. Bruce and myself.

Q. When did these committees meet about this matter?

A. The committee met in March.

Q. And where was the meeting?

A. The Parts Plant.

Q. And have those individuals whom you have just mentioned, were they present at that meeting?

A. They were.

Q. What occurred at that meeting? Was that one meeting or [159] more than one meeting?

A. It was a number of meetings.

Q. It was a number of meetings and they were held when, did you state?      A. In March.



(Testimony of Don D. Wilkerson.)

Q. All the meetings were held in March?

A. Yes.

Q. What occurred?

A. Well, the union stated their position in regard to the men that had been hired out of town and their wages cut. We stated that we felt as if they had been discriminated against.

The company contended that they wasn't going to do anything about them. We in turn filed the case with the N. L. R. B. The very next day we went into conciliation service up here with Harry Malcom and reached an agreement the next afternoon after the case had been filed the day before .

Q. What was the agreement about?

A. In regards to an adjustment.

Q. Did you have any correspondence with anybody representing the company concerning what the agreement was?

A. With Dave Fleet, yes.

Mr. Harrington: Will you mark this, please, Mr. Reporter? [160]

(The document referred to was marked as Board's Exhibit No. 11 for identification.)

Q. (By Mr. Harrington): I show you a paper which I have had marked as Board's Exhibit No. 11 for identification, and ask you to identify that, please.

A. That is in regard to the settlement reached in the cases of the out of town workers.

Trial Examiner Hektoen: The letter is from whom and to whom?

(Testimony of Don D. Wilkerson.)

Mr. Harrington: The letter was addressed by Mr. Wilkerson to Mr. Fleet and is the agreement as set out therein—the agreement that was arrived at.

The Witness: That is it.

Q. (By Mr. Harrington): And what is that?

A. Ink marks.

Q. I notice figures set in here with ink alongside and some writing here in pencil. Can you identify that?

A. It merely sets up what the retroactive amount or how it will be arrived at—a later adjustment. A later adjustment was worked out between the foreman, myself and Mr. Larimore.

Those that we couldn't agree on I was to take back to Mr. Dave Fleet and he would adjust them himself. They were the ink adjustments that were made.

Trial Examiner Hektoen: Were those increases?  
[161]

The Witness: Increases, yes.

Trial Examiner Hektoen: Who put the figures on the exhibit?

The Witness: I did.

Mr. Harrington: Mr. Riggs has completed the file by furnishing me three other documents and I will ask the reporter to mark them 11-A, 11-B, 11-C and 11-D for identification.

(The documents referred to were marked as Board's Exhibits No. 11-A, 11-B, 11-C and 11-D for identification.)

(Testimony of Don D. Wilkerson.)

Q. (By Mr. Harrington): Can you identify that?

Trial Examiner Hektoen: What is the number of it?

Mr. Harrington: This is Board's Exhibit 11-B.

Mr. Riggs: I will concede all of those letters is correspondence between the company and the union with reference to the 22 men.

Mr. Harrington: And they contain the agreement reached between the parties.

Mr. Riggs: Yes.

Mr. Harrington: Thank you very much. I wish to introduce these as Board's Exhibit 11-A, 11-B, 11-C and 11-D.

Mr. Riggs: Please identify the dates and from whom they are on the record.

Mr. Harrington: Board's Exhibit 11-A is a letter from [162] David Fleet, assistant to the general manager, to Mr. Wilkerson, and is dated April 6, 1942.

Board's Exhibit 11-B is a letter from Mr. Fleet, David G. Fleet, to Mr. Wilkerson, dated April 16, 1942.

Board's Exhibit No. 11-C is a letter from Mr. Wilkerson to Mr. David Fleet, dated April 21, 1942.

Board's Exhibit No. 11-D is a letter dated March 31, 1942, from Mr. Wilkerson to Mr. Wiseman, labor relations director. This letter is dated March 31, 1942.

Trial Examiner Hektoen: I take it your stipulation covers their being admitted in evidence?

(Testimony of Don D. Wilkerson.)

Mr. Riggs: Of course.

Trial Examiner Hektoen: They are admitted in evidence.

(Thereupon the documents heretofore marked for identification as Board's Exhibits Nos. 11-A, 11-B, 11-C and 11-D were received in evidence.)

BOARD'S EXHIBIT No. 11-A

Consolidated Aircraft Corporation  
San Diego, California

6 April 1942

Aeronautical Mechanics Lodge #1125

I. A. of M. District No. 22

1054 Third Street

San Diego, California

Attention: Mr. D. D. Wilkerson

Dear Mr. Wilkerson:

We set forth below confirmation of our proposals concerning the 21 grievance cases enumerated in your letter of 31 March 1942 and discussed at our meeting on Friday, 3 April 1942.

On the following employees, it was agreed that the Company would pay these employees (in a lump sum) the difference between actual earnings and what they would have earned had they been paid the rate at which they were originally hired.

Name	Clock No.	Original Hire Rate	Rate Cut to
✓E. N. Breid	67-4718	.75	.50 25†
✓C. F. Kresin	67-4921	1.15	.95 20†✓
✓C. Montague	67-4950	1.15	.95 20†—
✓L. J. Oscars	* 65-4018✓	.75	.65 10†

(Testimony of Don D. Wilkerson.)

√J. M. Hazel	65-6346	1.00	.80	20†
√G. Bonomolo	65-6186	.85	.60	35†
√J. J. Taliaferro	65-6465	.90	.75	15†
√E. U. Manion	65-6349	.95	.75	20†
√H. H. Hovis quit	65-6202	1.05	.85	20†

\*Pencil notation: What ever came out, Master Board.

†Ink notations.

On the following employees it was suggested that management and union representatives arrive at a mutual agreement as to the proper rate of pay for each man for the job he is now doing. Having agreed upon such rates, the Company would then pay to each man (in a lump sum) the difference between the amount he would have received at this agreed rate and the amount he actually received. It was further stated that if any of these employees was not satisfied with the rate mutually agreed upon by the Company and the Union, the Company would pay transportation costs for the return trip home.

Name	Clock No.	Orig. Hire Rate	Rate Cut to	Rate Foreman con- siders fair for present skill & job
√F. Buffington	67-4050	1.15	.80	1.00 20† 35†
√F. S. Allen	67-4964	.95	.88	.90 2†—
√C. W. Williams	65-6102	1.00	.60	.80* 20†
√W. L. Packer	65-6338	1.15	.82	1.05 13†
√A. E. Martens	65-6021	1.05	.75	.88* 8†
√F. Schroeder	60-2267	1.00	.60	.90 [ 95† ]—
C. R. A'Neals	15-6181	1.05	.85	.98* [ 1.05† ]
C. Murawski	12-4092	1.00	.90	.90* [ 95† ]
√G. L. Bonzel	65-6373	.95	.75	.88* 13†

\*Denotes present rate.

†Pencil notations.



(Testimony of Don D. Wilkerson.)

Settlements proposed for the following special cases were as follows:

✓ F. J. Roby 67-4959

Before this man left the east we wired him as follows on September 9, 1941:

“Mr. Hickman has forwarded your application and we notice your employment as a radial drill press operator. In view of the facts contained in your application we do not consider you fully qualified for this work at the rate of pay stated and wish to advise that it may be necessary to readjust your rate of pay after your arrival.” C. H. Batchelder, Consolidated Aircraft Corp.

Mr. Roby replied on September 12, 1941, as follows:

“Your wire received. I am leaving for your place Saturday 13. I am confident that when you find out what I can do, and the amount of work I can turn out, that you will find your representative did not over rate me. I am willing to be governed by your decision after I arrive there. Yours truly, F. J. Roby.”

While there was a question as to whether any adjustment was in order for this man, the Company agreed to make up the difference between the amount he earned at the 80c rate to which he was cut on January 17, 1942 and what he would have earned at any new rate which can be mutually

(Testimony of Don D. Wilkerson.)

agreed upon. His foreman considers a rate of 85c as fair for his present skill and job.

Ira Skaggs 15-6054

This man quit on 2-27-42. The Union Committee-man was consulted at the time this man's rate was cut and he signed the change of status slip. The Company offered to pay Mr. Skaggs \$60 as return trip travel allowance because similar treatment was accorded other men who were terminated because they could not perform work to our standards.

L. Olsen 65-6249

This man quit on 3-11-42. It appeared that there were two misstatements on his grievance. The first was that he was cut to 88c an hour and received same up to the present time (grievance dated 2-16-42). Actually he was cut to \$1.01 an hour, which rate he received up until he left. The second misstatement was his statement that he left a job paying \$1.10 an hour, whereas his original employment application, which he made out and certified as correct, shows that he was receiving 92c an hour on his last job.

The Company offered to pay Mr. Olsen a special return trip travel allowance of \$100.

Computations covering the retroactive pay will

(Testimony of Don D. Wilkerson.)

be made when rates for the employees in the second list above have been mutually agreed upon.

Cordially,

CONSOLIDATED AIRCRAFT  
CORPORATION.

DAVID G. FLEET,

Assistant to the General Manager.

DGF:mf

[Pencil notations on back of sheet.]

75-5-80

75-8-83

75-10-85

2nd 88✓—

3rd 98✓—

Leadman 1.06

Sup. 1.16

75c

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BOARD'S EXHIBIT No. 11-B  
(Copy)

Consolidated Aircraft Corporation  
San Diego, California

16 April 1942

Aeronautical Mechanics Lodge #1125

I. A. of M. District No. 22

1054 Third Street

San Diego, California

Attention Mr. D. D. Wilkerson

Dear Mr. Wilkerson:

With reference to our letter of 6 April 1942, and

(Testimony of Don D. Wilkerson.)

in accordance with the understanding reached at our last meeting, we have completed computations covering retroactive payments, and the amount due each man is set forth below. These computations cover the period through 3 April 1942. Additional adjustments covering the period from 4 April through 24 April will be made in those cases where the amount shown is followed by an asterisk.

Clock Number	Name	Retroactive	Agreed Upon	
		Payment Thru 4-3-42	Present Rate	New Rate (Effective 4-25-42)
12-4092	Casmir Murawski	\$14.49*	\$0.90	\$0.95
15-6181	C. R. A. Neals	125.73*	.98	1.05
60-2267	Fred Schroeder	297.32*	.75	.90
65-4018	L. J. Oscars	103.89	.86	.91
65-6021	A. E. Martens	191.13*	.88	1.00
65-6102	C. W. Williams	256.24*	.80	.90
65-6186	Guiseppe Bonomolo	161.50*	.75	.85
65-6202	H. H. Hovis	131.99	Quit 4-1-42	
65-6338	W. W. L. Paeker	348.75*	.95	1.15
65-6346	J. M. Hazel	93.79	1.00	1.05
65-6349	E. U. Manion	106.29	.98	1.05
65-6373	G. L. Bonzel	104.50*	.88	.95
65-6465	J. J. Taliaferro	43.79*	.88	1.00
67-4050	Fredrick Buffington	137.57*	.93	1.03
67-4718	E. N. Breid	277.04	.75	.88
67-4921	C. F. Kresin	123.81*	1.08	1.18
67-4950	Cletus Montague	132.13*	1.08	1.15
67-4959	F. J. Roby	57.48*	.80	.90
67-4964	F. S. Allen	18.94*	.88	.95

It is my suggestion that the new rates be put into effect as of 25 April 1942. By so doing, the additional adjustments mentioned above can be computed at the close of the pay period on 24 April—and checks can be distributed shortly thereafter.

(Testimony of Don D. Wilkerson.)

If this is agreeable, please advise as soon as possible, so that the change of status slips can be forwarded to the Payroll Department by Wednesday noon, 22 April.

Cordially,

CONSOLIDATED AIRCRAFT  
CORPORATION.

DAVID G. FLEET,

Assistant to the General Manager.

DGF:MN

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BOARD'S EXHIBIT No. 11-C  
(Copy)

Consolidated Aircraft Corporation  
San Diego, California  
Aeronautical Mechanics Lodge 1125  
1054 Third Avenue  
San Diego, California

April 21, 1942

Mr. David G. Fleet  
Assistant to the General Manager  
Consolidated Aircraft Corporation  
San Diego, California

Dear Sir:

With reference to your letter of April 16, 1942 and in accordance with the understanding reached in past conferences, I have to this date contacted the below named men and have their approval to



(Testimony of Don D. Wilkerson.)

accept the retroactive checks and the rates agreed on in your letter of the above date:

Casmir Murawski	12-4092	E. U. Manion	64-6349
C. R. A'Neals	15-6181	G. L. Bonzel	65-6373
Fred Schroeder	60-2267	J. J. Taliaferro	65,6465
L. J. Oscars	65-4018	Fredrick Buffington	67-4050
A. E. Martens	65-6021	E. N. Breid	67-4718
C. W. Williams	65-6102	C. F. Kresin	67-4921
Guiseppe Bonomolo	65-6186	Cletus Montague	67-4950
W. W. Paeker	65-6338	F. J. Roby	67-4959
J. M. Hazel	65-6345	F. S. Allen	67-4964

In the casee of H. H. Hovis, Department 65-6202, Laverne Olsen, Department 67, Ira Skaggs, Department 15-6054, it is the desire of this office that you forward the checks of the three above named men direct to their last known address.

Very truly yours,

AERONAUTICAL MECHAN-  
ICS LODGE 1125.

(Signed) D. D. WILKERSON,  
D. D. Wilkerson

Business Representative.

DDW :ap

(cc: Messrs. W. M. Shanahan  
J. S. Blakely  
H. R. Wiseman  
G. A. Bowers

(Testimony of Don D. Wilkerson.)

BOARD'S EXHIBIT No. 11-D  
(Copy)

Consolidated Aircraft Corporation  
San Diego, California  
Aeronautical Mechanics Lodge 1125  
1054 Third Avenue  
San Diego, California

March 31st, 1942

Mr. Herman R. Wiseman,  
Labor Relations Director,  
Consolidated Aircraft Corporation,  
Lindberg Field,  
San Diego, California

Dear Sir:

We are herewith submitting the names of the men who were hired out of town, or out of state, and who were the subject of discussion at today's conference.

Mr. E. N. Breid, No. 67-4718.

Mr. Frederick Buffington, No. 67-4050.

Mr. Franklin J. Roby, No. 67-4959.

Mr. Carl F. Kresin, No. 67-4921.

Mr. Cletus Montague, No. 67-4950.

Mr. Frank Sanford Allen, No. 67-4964.

Mr. Louis J. Oscare, No. 65-4018.

Mr. C. W. Williams, No. 65-6102.

Mr. James M. Hazel, No. 65.

Mr. Guiseppe Bonomolo, No. 65-6186.

Mr. Jack J. Taliaferro, No. 65-6465.

Mr. W. L. Packer, No. 65-6338.

(Testimony of Don D. Wilkerson.)

Mr. E. U. Manion, No. 65-6459.

Mr. Arthur E. Martens, No. 65-6021.

Mr. Fred Schroeder, No. 60-2267.

Mr. Clyde R. A'Neals, No. 15-6181.

Mr. Casmir Murawski, No. 12-4092.

Mr. G. L. Bonzel, No. 65-

Mr. Ira Skaggs, No. 15-6054.

Mr. Harry H. Hovis, No. 65-6202.

Mr. Laverne Olson, No. 65-6249.

With kind regards, I remain,

Respectfully yours,

(Signed) D. D. WILKERSON,  
B. A., Local 1125.

DDW/rb

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Q. (By Mr. Harrington): In your capacity as business agent of the Union, Mr. Wilkerson, do you attend all conferences between the company and the union?

A. Practically all of them.

Q. At any of those conferences that you have attended was the subject of job classification and pay rates brought up?

A. It has been, yes.

Q. And at how many conferences was it brought up?

A. Practically all conferences since the first of the year [1963] up until the present time.

Q. Who was present during those conferences?

(Testimony of Don D. Wilkerson.)

A. Up until three months ago, or two months ago Dave Fleet, Mr. Bowers and Mr. Wiseman.

Q. Who has been present since that time?

A. I haven't attended them in the last two months.

Q. What was discussed at those conferences concerning job classifications and the rates of pay?

A. The union contended that the company had set up job classifications without consulting the union as defined by the board.

Q. Did you take the matter up with anyone connected with the company yourself?

A. Personally I had a conversation with Mr. Wiseman in regard to it. At that time he informed me that the company was setting it up but it hadn't been set up yet. If and when it was set up we possibly could set down together and work out our problem then.

I at that time, asked him for a copy of the classifications that were set up and he informed me that we would get a copy in due time.

Q. Did you take the matter up at any other time with Mr. Wiseman?

A. I corresponded with him by mail, informing him it was the desire of the union to set up committees for the purpose [164] of working out job classifications.

Q. About when did you do that?

A. That was in March, I believe.

Mr. Harrington: Will you mark this for identification, please, Mr. Reporter?

(Testimony of Don D. Wilkerson.)

(The document referred to was marked as Board's Exhibit No. 12 for identification.)

Q. (By Mr. Harrington): I show you a paper I have had marked Board's Exhibit No. 12 for identification and ask you if you can identify that?

A. Yes, that is it.

Q. What is the exhibit?

A. The letter to Mr. Herman Wiseman stating the desire of the union to set up joint committees.

Trial Examiner Hektoen: Dated when?

The Witness: Stating the desire——

Trial Examiner Hektoen: No, dated when?

The Witness: March 25. Stating the desire of the union to set up joint committees.

Mr. Harrington: I offer Board's Exhibit No. 12 for identification in evidence as Board's Exhibit 12. I do not wish to offer the writing at the bottom of the exhibit—just the body of the letter.

Trial Examiner Hektoen: Is there any objection?

Mr. Riggs: No objection. [165]

Trial Examiner Hektoen: It may be admitted.

(The document heretofore marked for identification as Board's Exhibit No. 12 was received in evidence.)



(Testimony of Don D. Wilkerson.)

BOARD'S EXHIBIT No. 12

March 25th, 1942.

Mr. Herman R. Wiseman, Labor Relations  
Director,  
Consolidated Aircraft Corporation,  
Lindberg Field,  
San Diego, California.

Dear Sir:

During the recent negotiations between the Labor Relations Committee of the Consolidated Aircraft Corporation and a like committee representing the Union; the question of bringing together duly authorized committees from our respective organizations for the purpose of discussing and setting up mutually agreed to job classifications and rates of pay pertaining thereto was discussed and agreed to in principle.

We are herewith signifying our desire, and we are requesting that you set up your committee to meet with our committee for the purpose of setting up and establishing job classifications and rates of pay covering all work now being done by employees eligible to membership in our organization.

These two committees designated to handle this very important matter should operate free from interference from any other committees; and devote all of their time to this one issue.

(Testimony of Don D. Wilkerson.)

Trusting that we may have an early reply to this communication and that we can mutually get into this task as quickly as possible, I remain,

Sincerely yours,

D. D. WILKERSON,

Business Representative,

Local 1125.

DDW/rb.

Marginal Notation—Via Bonding Mess, Copy has been sent to Mr. Walsh.

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Q. (By Mr. Harrington) Did you receive any reply to that letter? A. Not to date.

Q. Not to date, you say?

A. (No response.)

Q. Have you handled grievances concerning pay since that time? A. I have.

Q. How many such grievances have you handled?

A. That would be hard to estimate.

Q. How many would you say?

A. Very many I would say.

Q. And when were those grievances handled?

A. Since the first of the year up until two months ago.

Q. And have you taken any up with the company? A. I have.

Q. With whom?

A. Mr. Wiseman and Mr. Vance.

(Testimony of Don D. Wilkerson.)

Q. What occurred?

A. In the adjustment of all grievances we find that wherever a top rate of pay is involved that there was no adjustment made. [166]

Q. Have you ever asked anyone representing the company for copies of these rates of pay and job classifications?

A. As before stated, I asked Mr. Wiseman on one occasion and he told me it would be forthcoming if and when the company had it set up properly.

Q. Well, have you ever received a copy of it?

A. Not to date.

Q. In your capacity as business representative of the union do you receive communications from the company? A. I do.

Q. Have you received any communications relative to asking employees to withdraw from the union?

A. I received one such communication in April. Mr. Wiseman and a man by the name of Prior—

Q. When did you receive this communication?

A. I am sure it was in April.

Mr. Riggs: Couldn't you shorten this by showing it to him and asking him if he received it?

[167]

Mr. Harrington: Will you please mark this for identification?

(Thereupon the document referred to was marked as Board's Exhibit No. 13 for identification.)

(Testimony of Don D. Wilkerson.)

Q. (By Mr. Harrington) I show you Board's Exhibit 13 for identification and ask you if that is the letter you are referring to?

A. That is the letter from Mr. Wiseman.

Q. And it is dated when?

A. February 20. (Handing exhibit to Mr. Riggs.)

Mr. Harrington: I offer Board's Exhibit 13 for identification in evidence as Board's Exhibit 13.

Trial Examiner Hektoen: There being no objection, it is admitted.

(Thereupon the document heretofore marked for identification was received in evidence and marked Board's Exhibit No. 13.)

BOARD'S EXHIBIT No. 13

(Cut)

Consolidated Aircraft Corporation  
Lindbergh Field - San Diego California  
Cable "Consair"                      P. O. Box 1950

February 20, 1942

Mr. Don Wilkerson  
Business Representative, Lodge 1125  
International Association of Machinists  
1054 Third Avenue  
San Diego, California

Dear Sir:

It has come to my attention that H. M. Prior, Assistant Foreman of Jigs and Fixtures Department, Plant #1, made a written request on Feb-

(Testimony of Don D. Wilkerson.)

ruary 9, 1942 for withdrawal from Lodge #1125. I also understand that you called him on the telephone and refused his request, upon the basis that he was not a general foreman.

You are aware that our contract contains no restrictions such as this, and that the National Labor Relations Board has defined Lodge #1125 as the bargaining unit for all hourly paid employees.

Since Mr. Prior does not come within this classification, it will be appreciated if you will immediately act upon his request.

Very truly yours,

CONSOLIDATED AIRCRAFT  
CORPORATION

H. R. WISEMAN

H. R. Wiseman

HRW:LF

Labor Relations Director

[In pencil] Jan 1 1941

---

Q. (By Mr. Harrington) Have you received any communications from employees concerning resignations from the union? A. I have.

Mr. Harrington: Will you mark this, please?

(Thereupon the document referred to was marked as Board's Exhibit No. 14 for identification.)

Q. (By Mr. Harrington) I show you a paper I have had marked Board's Exhibit 14 for identification and ask you what that is? [168]



(Testimony of Don D. Wilkerson.)

A. I received this communication, although it is not addressed to me, but there is a notation on the bottom of it and it was turned over to me.

Q. The notation at the bottom says, "D. M.," does it not?      A. Yes.

Q. Who is that?

A. That is me, and it is dated February 9. (Handing exhibit to Mr. Riggs.)

Mr. Riggs: The witness is referring to a letter dated the 9th of February, 1942, addressed to Lodge 1125 by H. M. Prior. I have no objection.

Trial Examiner Hektoen: It is admitted as Board's Exhibit 14.

(Thereupon the document referred to was received in evidence and marked as Board's Exhibit No. 14.)

BOARD'S EXHIBIT No. 14

(Cut)

Consolidated Aircraft Corporation

Lindbergh Field - San Diego California

Cable "Consair"

P. O. Box 1950

9 February 1942

Lodge 1125

International Association of Machinists

1054 Third Avenue

San Diego, California.

Gentlemen:

Please be advised that I now hold the position

(Testimony of Don D. Wilkerson.)

of an Assistant Foreman with Consolidated Aircraft Corporation, and I am at liberty, in this capacity, to hire and fire persons under my supervision in the Jigs and Fixtures Department, Plant No. 1. I therefore tender my request for a withdrawal card from Lodge 1125 I.A.M. Your prompt action on this matter will be greatly appreciated.

Yours very truly,

H. M. PRIOR

bj

H. M. Prior

P. S. Don Please get in touch with me in regard to this matter. My phone extension is 431.

Thanks

PRIOR

---

Q. (By Mr. Harrington, continuing) Did you get in touch with Prior as he requested in the letter here?

A. I did, by telephone.

Q. And what was your discussion with him?

A. I asked him to come to the office—I wanted to talk to him.

When he come to the office, I told him that as far as the union was concerned, our constitution stated that he had to be a general foreman before he could have a withdrawal card out of the union. Otherwise he could just drop his [169] membership if he so desired.

(Testimony of Don D. Wilkerson.)

Q. And what did he say with reference to that matter?

A. He says that—he didn't state who, but he said certain individuals in the company told him that he would get along better if he didn't belong to the union in the capacity that he was in.

Mr. Harrington: I have no further questions.

Cross Examination

Q. (By Mr. Riggs) In these conferences about these 22 men that came up, as I take it on March 31st or March 30th, who were present? Mr. Fleet, Mr. Wiseman and Mr. Bowers for the company?

A. Yes; and Mr. Brown and Mr. Phillips and Mr. Bruce and Mr. Perry and myself.

Q. For the union? A. For the union.

Q. And those negotiations were carried on with Messrs. Fleet, Bowers, Wiseman after this talk that you had had or at least that you had been informed by either Mr. Laddon or Woodhead that they were going to represent the company in their labor relations? A. That is true.

Q. At this meeting that you say you had with Mr. Woodhead and Mr. Laddon in January, that was about all that was said at that meeting, wasn't it? [170]

A. I think there were four subjects taken up but that was the only one talked about.

Q. Mr. Woodhead was the new president, was he not—he had just come there, hadn't he?

A. Yes, sir.

(Testimony of Don D. Wilkerson.)

Q. Didn't he say that Mr. Fleet and Mr. Bowers and Mr. Wiseman were going to contact the union and you should have your negotiations with them?

A. He says, "From now on these three men here have got your answers. If you are not big enough to get those answers from them, don't come crying to me."

Q. That was all that was said at that conference, wasn't it?

A. That was his answer to our question, yes.

Q. I mean that was the subject of the conference, wasn't it?

A. That is true.

Q. At this conference where you took up the subject of the 22 men in the shape of a grievance, didn't Mr. Fleet say that this was the first he had heard about this matter?

A. Yes, I believe he did, but I had taken them up with Mr. Wiseman. Understand in this meeting with Mr. Woodhead and Mr. Laddon in the first part of January, and immediately following that, I had just went into office and started taking up these out of town workers' grievances with Mr. [171] Wiseman and it could be understood why Mr. Fleet didn't know anything about it.

Q. Well, you didn't get around to writing the company anything about it until Mr. Fleet asked you the names of the people that were involved and then you wrote him this letter of March 31st, which is Board's Exhibit 11-D, giving him the names of the persons who were the persons who

(Testimony of Don D. Wilkerson.)

were the subject of the conference, isn't that so?

A. That is true, I filed grievances on them.

Q. And he said he didn't know anything about it and to please let him know the names, didn't he?

A. The grievances were filed with Mr. Wiseman when *we taken* it up in the general conference the first time. Mr. Fleet had seen them. The grievances were carried into the general conferences and that was the first time Mr. Fleet seen them.

Q. Now, he said that he would look into it, didn't he?      A. He did.

Q. Then you had some other meetings about it, didn't you?      A. That is true.

Q. He refers in his letter of April 6th to something being discussed at the meeting of Friday, the 3rd of April, and that conference was the subject of these men who had been hired out of town, wasn't it?      A. That is true. [172]

Q. Didn't Mr. Fleet say in substance at that conference, and I'm not trying to put anything in your mouth that he didn't say, but I do want to shorten this thing if I can. Didn't he say in substance, that they had investigated this matter and in some cases he thought that the company was at fault in that the men had been hired and there was no particular job that he could fill at the time he came there and that in other cases they found that the men who had been hired, for instance, as a lathe operator, at \$1.00 an hour was



(Testimony of Don D. Wilkerson.)

incompetent to operate a lathe when he got there and that the foreman had put him up on some other job at a lower rate of pay?

A. Mr. Fleet and the other two gentlemen on the committee stated definitely in the conference room at the part plant that they would not make an adjustment on these cases. Following that the cases were filed with the N. L. R. B. [173]

Q. What was discussed at this meeting of the 3rd, then?

A. The meeting of the 3rd——

Q. Let me refresh your memory. He says: We set forth the confirmation of our proposals concerning the 21 grievance cases. He must have made some proposals with reference to these cases, didn't he?

A. He made that on possibly the 29th or 30th, the first days of the conciliation service. The disagreement was reached the first day we went into conciliation service.

Q. So that the agreement to adjust these men was reached the first day you went into the conciliation service. Who had you had the talk with prior to that time?

A. The labor relations department: Mr. Bowers, Mr. Wiseman, Mr. Dave Fleet.

Q. As soon as Mr. Fleet got into it there was suggested that the management and the union representatives arrive at a mutual agreement as to the proper rate of pay for the job each man is now doing. Isn't that so?

(Testimony of Don D. Wilkerson.)

A. Mr. Fleet had been in it from possibly January 7 up until the time we went into conciliation service and knew about it.

Q. I am afraid I don't follow you. I thought you said Mr. Fleet came into these conferences on March 30th or 31st for the first time. Previous to that time you filed grievances with Wiseman and you made them subject to complaint [174] somewhere else.

A. I filed grievances with Wiseman; probably we wrangled back and forth for six or seven days, but reached no adjustment. It was decided we take them to the general conference.

Q. With Mr. Malcolm, you mean?

A. No. This was still the latter part of January, February. Originally it started out with 12 of these grievances. During this period from January up until the time they were settled, there actually is, possibly, 23 that has been settled at the present time. There was no adjustment made until the first day we went to conciliation service.

Q. When was that?

A. That was March. I think it was March 30th, it was sent into conciliation service.

Q. Then Mr. Fleet—at his request you wrote him the names of these men?

A. That is true.

Q. At some stage of this conference didn't Mr. Fleet say, on behalf of the company, in substance, what I have said: That in some cases he found the company was at fault, and in other cases, he

(Testimony of Don D. Wilkerson.)

found the man has misrepresented his capacity for the job for which he was hired?

A. Mr. Fleet said that after March 30.

Q. I don't care when he said it. Did he say it?

A. I say: He said it after March 30. [175]

Q. It took a long while to get that out of you. Next, didn't he say the company would proceed, in connection with the union and foremen, to evaluate each of the men and the work they were doing at that particular time?

A. He says: We will pay them retroactive pay, the amount of the difference between the rate we arrive at through negotiation and the rate we promised them at the time we hired them.

Q. Also, where a man had misrepresented his capacity, he was also to be evaluated and get whatever rate the foremen, union, and company agreed on?

A. That is true.

Q. That was done, wasn't it?

A. Yes, sir.

Q. And they did receive retroactive pay to a certain date, did they not?

A. They did.

Q. And that was settled to the complete satisfaction of the union, wasn't it?

A. That is true.

Q. After negotiation with the company?

A. After the union had taken the charges to the N. L. R. B., yes.

Q. With reference to this Prior letter of Exhibit 13 and 14, general foremen are not admitted to membership in the [176] union, are they?

(Testimony of Don D. Wilkerson.)

A. General foremen can still retain membership in the union, but if they wish withdrawal cards, the union will grant them.

Q. The union has usually taken the position that foremen, or persons that have the right to hire and fire are not appropriate members, haven't they?

A. We do not deny membership, but they have the privilege of taking a withdrawal card.

Q. The only difference between you and Mr. Prior at that time was as to whether he was a general foreman or assistant general foreman, isn't it?

A. The difference was whether he was a general foreman or an assistant foreman, not an assistant general foreman.

Q. He says that he was assistant foreman and he had the capacity to hire and fire persons under his supervision in jigs and fixtures department, Plant No. 1. What happened to his application for withdrawal?

A. No action was taken on it. Mr. Prior let his dues get delinquent, and he was automatically dropped from the union.

Q. And on the job classification complaint, you were told, were you not, that the company regarded these job classifications as guides? They hadn't been fixed as any fixed classifications?

A. From time to time they told me that was the yardstick [177] by which their foremen could govern their rates.

(Testimony of Don D. Wilkerson.)

Mr. Riggs: That is all.

Trial Examiner Hektoen: Wait a minute. Anything more, Mr. Harrington?

Redirect Examination

Q. (By Mr. Harrington) On these out of state hires, when these 22 men had been reduced in pay, was the union consulted before the men were reduced in pay?

A. Not to my knowledge.

Mr. Riggs: Pardon me. Will you read the question?

(The question was read.)

The Witness: The answer is: Not to my knowledge.

Trial Examiner Hektoen: How many men? Had they been reduced?

The Witness: They had been reduced.

Trial Examiner Hektoen: Had the union been consulted?

The Witness: No.

Q. (By Mr. Harrington) You spoke of matters taken up in general conference. What did you mean by that? You mean these boards representing the union and the company that you testified to? A. Yes.

Q. I wasn't clear on that matter.

I have no further questions. [178]

Recross Examination

Q. (By Mr. Riggs): On the hire of these 22 men from out of state, they were all in a rather



(Testimony of Don D. Wilkerson.)

high classification of machine work, weren't they?

A. They run anywhere from 60 cents an hour to \$1.50 an hour, were classified from—hired at a starting rate as inspectors, some of them up to machines hands at \$1.15 an hour.

Q. When this matter came up, didn't Mr. Fleet say they would give these people, if they wanted, fare back home, or would evaluate them here, just as they chose?

A. They come out in the original—what the original agreement I had with Mr. Fleet so states. The original agreement states that.

Q. They weren't all employed in one department in the plant, were they? A. No.

Q. They were scattered all through the entire plant?

A. I think they were employed in three different departments. There was one in 60, 65, and 67, was the only three departments I think involved.

Q. Were those departments that have anything to do with machining and operation of lathes?

A. 65 and 67 is a machine shop and tool room, and I believe 60 at that time was inspection. I am not positive about it.

Q. I didn't hear your last words. [179]

A. 60 at that time was inspection department.

Mr. Riggs: I have nothing further.

Trial Examiner Hektoen: That is all. Thank you.

(Witness excused.)

Trial Examiner Hektoen: We are in adjournment until 10:00 o'clock tomorrow morning.

(Whereupon, at 5:00 o'clock p. m., September 1, 1942, an adjournment was taken until 10:00 o'clock a. m., Wednesday, September 2, 1942.) [180]

Conference Room  
Chamber of Commerce Building,  
San Diego, California  
Wednesday, September 2, 1942.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10:00 o'clock A. M.

[181]

Trial Examiner Hektoen: The hearing will be in order.

Mr. Harrington: Mr. Barnes. [183]

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ARTHUR J. FISHER, JR.

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Harrington): Give your full name to the reporter, please.

A. Arthur J. Fisher, Jr.

Q. And your address?

A. R. F. D. 1, Box 264 E. T., El Cajon, California.

(Testimony of Arthur J. Fisher, Jr.)

Q. Were you employed by Consolidated Aircraft Company?      A. Yes, sir.

Q. When were you employed by them?

A. From December 18, 1939, until January 31, 1942.

Q. Are you a member of the union?

A. Yes, sir.

Q. How long have you been a member?

A. Since 1940 until the present time.

Q. Where had you worked before working for Consolidated Aircraft Corporation?

A. For General Motors Corporation.

Q. Where had you worked for General Motors?

A. In the Fisher Body plant in the city of Detroit.

Q. In what department had you worked in that plant?

A. In the efficiency department. [192]

Q. Did you ever, while you were connected with Consolidated Aircraft Corporation, make any suggestions about the operation of that plant?

A. Yes, sir.

Q. To whom did you make those suggestions?

A. To Mr. Kelly.

Q. When was that?

A. Early in 1940.

Q. What did you suggest?

A. Suggested they make clamps to hold angles in place on bulkhead boilers.

Q. Anything else?

(Testimony of Arthur J. Fisher, Jr.)

A. Also suggested that they start a foremen's school in Consolidated Aircraft so that there would be closer cooperation between the foremen and the workers.

Q. Was anything done about those suggestions, to your knowledge?

A. They have a foremen's school today; also, I was notified early in January of this year by Al Davis, the lead man in the spar section that they were using clamps that I suggested to hold angles in place on auxiliary spar parts.

Trial Examiner Hektoen: Who is Mr. Kelly?

The Witness: Mr. Kelly is plant manager of Consolidated Aircraft Corporation. I am not positive of his title today.

Q. (By Mr. Harrington): Did anyone connected with the company [193] ever speak to you about the union?

A. Yes, sir; Mr. Liegal, also Mr. Powell.

Q. Who is Mr. Liegal?

A. Mr. Liegal was my first foreman in Consolidated.

Q. When did he speak to you about it?

A. Early in 1940.

Q. Where?

A. In the sheet metal punch press department.

Q. Who was present when he spoke to you?

A. Just Mr. Liegal and I.

Q. What was this conversation? What was said?

A. This conversation come up after initiation at the Eagles Lodge. Mr. Liegal and I were talking

(Testimony of Arthur J. Fisher, Jr.)

about the job of lead man on the afternoon shift. Mr. Liegal told me if it wasn't for my union activities, he would be able to do something for me in procuring this job as lead man.

Q. Had you asked for that position?

A. I did, the day before, I asked Mr. Liegal for this job, when I found out they were starting an afternoon shift.

Q. What department were you working in at that time?

A. Punch press department.

Q. Did you receive this position of lead man?

A. No, sir, I did not.

Q. How long did you work in the punch press department?

A. From December, 1939, to June of 1940. [194]

Q. What happened then?

A. In June of 1940 they started the cowlings department out in the tent in the back yard, and I asked Mr. Liegal to transfer me out into this department as it was a new department, and Walter Borg, the lead man of this department, was a charter member of our local, and I thought I could get along with him better than being where I was.

Q. Were you transferred?

A. Yes, sir, I was.

Q. Did you work under Borg in that department?

A. Yes, sir.

Q. How long did you work in that department?

A. Until my discharge in July, 1940.



(Testimony of Arthur J. Fisher, Jr.)

Q. Were you discharged in July, 1940?

A. Yes, sir, I was.

Q. Was any reason given for your discharge by the company?

A. On the slip the company gave me it stated I was unqualified for work.

Q. Were you told why you were unqualified?

A. There was some scrap run three months previous to the date of my discharge which I had run on a press, closing the angle on a job, and this job was O. K.'d by my immediate lead man, Phil Raymond, also by the inspector, his first name was Art, of the department, and the crack did not show up until the parts were anadized.

Q. What sort of an operation is anadizing?[195]

A. It is one I don't know.

Q. Do you know when the anadizing occurred?

A. I do not. It must have been two or three months after the parts were run.

Q. Did you attend any meeting of the union where the matter of hours and overtime pay was discussed?

A. Yes, sir.

Q. When was that?

A. It was in the second Wednesday of the month of July.

Q. July of what year?

A. 1940.

Q. What happened at that meeting?

A. There was a letter came there asking that we work 40 hours per week before time and a half would be paid.

(Testimony of Arthur J. Fisher, Jr.)

Q. What were you then working?

A. We were working—our contract called for working eight hours a day, time and a half for over eight hours in any one day.

Q. Who was this letter from?

A. This letter was signed by Major Fleet, written by his secretary.

Q. Who was it addressed to?

A. It was addressed to Local 1125, our president at that time, Jack Waskey.

Q. How was the matter brought up at the meeting? [196]

A. It was read at the meeting by the recording secretary, and after it was read, Walter Borg made it as a motion. The meeting then adjourned from the small hall and moved downstairs to the large hall, to accommodate the men who were coming for this particular meeting.

Q. Then what occurred in the small hall?

A. I spoke first opposing this motion.

Q. What did you say, and do you recall the motion?

A. The motion was that we work 10 hours a day. What Major Fleet wanted to do was work 10 hours a day, four or five days a week, and we wouldn't get no time and a half until we had worked 40 hours. I put it to the fellows of the day shift meeting, that seen my way, and voted it down.

Q. What did you say at that meeting?

Mr. Riggs: I will object to that unless it was

(Testimony of Arthur J. Fisher, Jr.)

brought to the attention of some official of the company.

Trial Examiner Hektoen: What do you say, Mr. Harrington?

Mr. Harrington: He said that he opposed this motion and that the motion was in a letter from Major Fleet.

The Witness: Written and signed by Major Fleet. In fact, the letter could be looked up yet.

Trial Examiner Hektoen: Wait a minute. Your objection is, of course, based on the fact that nobody representing the company was there.

Mr. Riggs: Yes, sir. I think what he said, in any [197] event, is immaterial. He has already testified without objection, that he opposed the motion.

Mr. Harrington: That is sufficient.

Q. (By Mr. Harrington): You opposed the motion? A. Yes.

Q. We will let it rest there. When were you discharged, did you say?

A. July 1940, the first time.

Q. Did you do anything about your discharge?

A. I turned my discharge over to Brother Bentley, International representative of the Machinists Local.

Trial Examiner Hektoen: Let me ask you a question: Your opposition to the motion resulted in what?

The Witness: In my discharge.

(Testimony of Arthur J. Fisher, Jr.)

Trial Examiner Hektoen: What did the union do?

The Witness: At the present time?

Trial Examiner Hektoen: No, at that time.

The Witness: At that meeting?

Trial Examiner Hektoen: Yes.

The Witness: They voted the motion down.

Q. (By Mr. Harrington): You say they took your discharge up with Bentley?

A. Bentley, International representative of the Machinists Local, I. A. & M. of United States.

Q. What happened then? [198]

A. Brother Bentley and Brother Waskey, our then president, spoke to Mr. Kelly about it two or three times, and the last meeting with Mr. Kelly, I was called too.

Q. Who is Mr. Kelly?

A. Kelly was then plant manager.

Q. What happened at the last meeting?

A. Mr. Kelly said to give him a couple of days to think it over.

Q. Then what happened?

A. He called Brother Bentley, and Brother Bentley called me on the phone and told me to go to the employment office the next morning and be reinstated.

Q. Were you reinstated?

A. No, sir, I was rehired, in August, two weeks after my discharge.

Q. In what department?

(Testimony of Arthur J. Fisher, Jr.)

A. Into the wing department.

Q. Under whose supervision were you?

A. Jack Waskey.

Q. Have you ever held any position in the union?

A. Yes, sir.

Q. What position?

A. I was committeeman for the year 1941; also I was plant chairman of the parts department when we moved up there.

Q. When were you committeeman of—— [199]

A. Committeeman of the wing department, Department 19, later the 69 department.

Q. What were your duties as committeeman?

A. To take up all grievances with management and see if they could be settled in a satisfactory manner for the employee.

Q. Were you required in the performance of your duties to leave your job?

A. Yes, sir, I was.

Q. Did you make any provision about leaving your job?

A. Yes, sir, I did.

Q. What was that?

A. Immediately after I was elected committeeman in December of 1940, we took office in the first week of January, I went immediately to our then foreman, Steve Powell, and made arrangements with him——

Q. State what you said and what he said.

A. I asked him what he wanted me to do in case



(Testimony of Arthur J. Fisher, Jr.)

I would have to leave my job. He told me as—if he was at his desk to notify him where I was going, and if he was not there at his desk, to notify his clerks Don Kimball and Jimmy Innis, so that he would know where I was at all times.

Q. Have you followed that procedure?

A. I followed that procedure until my discharge in 1942.

Q. Did you have any further discussions with Powell around that time? [200]

A. Yes, sir.

Q. What was that?

A. Brother Powell and I talked—Steve Powell, I shouldn't call him "Brother," and I talked about the work I had done in General Motors, and I showed him lineups and charts of the procedure that I had helped set up in General Motors when connected with the efficiency department.

Q. Did you have any other conversations?

A. Brother Powell told me—I still get "Brother" in there; I wish you would keep that out—Steve Powell told me that if I would quit this union stuff, he would see that I would be advanced to a better position.

Q. When was that conversation?

A. I went to see Steve Powell this time to go to Mr. Waterbury's office.

Q. Can you place the time?

A. I don't know the exact date.

Q. What part of the year was it in, or what month was it in?

(Testimony of Arthur J. Fisher, Jr.)

A. This was in January of 1941.

Q. Was anyone else present?

A. No, sir.

Trial Examiner Hektoen: Who is Mr. Waterbury?

The Witness: Mr. Waterbury was personnel man for the whole plant. [201]

Q. (By Mr. Harrington): You say when you returned to work you went to work under Waskey. How long did you work under him?

A. This statement now—Brother Waskey was supervisor of the department, and I worked, there was three or four lead men under him; I want to explain this thoroughly. When I was called back to work, when I was rehired, I went to work for Waskey in the gas tank corners division. Later, when there were no gas tank corners and they couldn't get them, I was transferred, not transferred, because I was still in his department, but he sent me over to work in the bulkhead division, Mr. Mohr.

Q. About when was that?

A. That was in June, I think it was, late in 1940.

Q. Did Waskey give you any reason for doing that?

A. Mr. Waskey told me at that time that they couldn't get gas tank corners, which was a forging, an aluminum forging, so he sent me over to Bob Mohr's department as they had a lot of extra work to do at that time. [202]

(Testimony of Arthur J. Fisher, Jr.)

Q. And what did you do under Mohr?

A. I built the landing gear brace for the B-24's, the first ones that were built. Also built bulkheads when there were no landing gear braces to be made.

Q. How long did you work under Mohr?

A. I worked under Mohr until I went to work for Bill Larson, who was another lead man under Waskey who was in charge of the spar section.

Q. And do you recall when that happened?

A. What is that?

Q. Do you recall when that happened?

A. That was in—that was after we moved to Building No. 4. I don't remember the exact date.

Q. How long did you work there?

A. I worked under Bill Larson until my discharge in January of 1941.

Q. Were you acting as union committeeman all that time?      A. Yes.

Q. And were you following the procedure that you had set up?      A. Yes, sir.

Q. In your department?      A. Yes, sir.

Q. Did anyone tell you you should not follow that procedure?

A. No, sir; not until December 13th. [203]

Q. Was the fact that you were following that procedure brought to the notice of any officials of the company?      A. Yes, sir.

Q. When?

A. Brother Selvaggi of the hammer shop—brother Selvaggi of the hammer shop told the clerk

(Testimony of Arthur J. Fisher, Jr.)

in my department, Mr. Mineah, called his clerk and asked him if he could get in touch with me.

Q. When did this happen?

A. This happened——

Mr. Riggs: May I ask is all of this detail necessary?

Mr. Harrington: I think so, counsel.

Mr. Riggs: It is your case; go ahead.

Q. (By Mr. Harrington) When did it happen?

Trial Examiner Hektoen: When did it happen?

The Witness: This happened in December, in the first two weeks of December of 1941.

Q. (By Mr. Harrington) Who was Mineah?

A. Mineah was the foreman of the wing department.

Q. And what happened?

A. The clerk forgot to let me know that Selvaggi had called me and at our meeting on December 16th with management it was brought up as a grievance.

Q. Who was present at that meeting?

A. Steve Powell, Henry Golen. They were both assistant plant [204] managers of Parts Plant. Also Bill Larimore from the personnel department.

Q. And what occurred—who was present representing the union?

A. Also Brother Felton, our business representative, the plant committeemen of all departments, and myself.

Q. And what occurred at that meeting?

(Testimony of Arthur J. Fisher, Jr.)

A. At that meeting I was the chairman of the meeting and it was brought up there about this telephone conversation with the clerk and Mr. Powell made the statement that he allowed me to be called to the phone and also to leave my department at any time that I had to go because I had already made these arrangements previously with him.

Q. Who was Powell, or what was Powell's position?      A. He was assistant plant manager.

Q. And was there anything else said at that meeting?      A. (No response)

Q. Well, do you recall anything that was said?

A. I am puzzled as to the meeting. That is what I am thinking about.

Q. Were you working in the plant in December of that year, 1941?      A. Yes, I was.

Q. Do you know T. M. McMahan?

A. Yes, sir; I do. [205]

Q. Is he an employee of the company?

A. Yes, sir; he works in the paint department.

Q. Did you have a conversation with him in December, 1941?      A. Yes, sir.

Q. When was that conversation?

A. I returned to my work on the 13th day of December at about 3:15 and a fellow working with me told me that a painter was there looking for me. I had been to the toilet.

Q. Who had been to the toilet?

A. I had been to the toilet. And when I returned to my job this fellow working with me told



(Testimony of Arthur J. Fisher, Jr.)

me that a painter had been there looking for me while I was gone.

Q. What did you do then?

A. I ran over to the top of the steps, which was about 18 feet out of my department, through the tool room, to look down and see if I could see him. As I looked down the steps I seen this painter talking to Brother Harkins and also Brother Pyett.

Q. Who were Harkins and Pyett?

A. Brother Harkins was committeeman for Department 65, which is the tool room. Pyett was just elected president of our local at that time.

Q. What happened then?

A. I hollered to McMahan and asked him what he wanted and he waved this paper at me and I went down the stairs to see [206] what it was and I seen that it was a petition put out by the company asking men to work Sunday for nothing and also if they wanted pay to punch their clock card and work for time and a half.

Mr. Harrington: Will you please mark this for identification, Mr. Reporter?

(The document referred to was marked as Board's Exhibit No. 15 for identification.)

Q. (By Mr. Harrington) I show you Board's Exhibit No. 15 for identification and ask you if you have seen that before?

(Handing exhibit to the witness.)

A. Yes, sir.

Q. When?

(Testimony of Arthur J. Fisher, Jr.)

A. That is the petition that McMahan had.

Mr. Riggs: Why do you call it a petition? It looks to me like a notice.

Q. (By Mr. Harrington) Why do you call it a petition?

Trial Examiner Hektoen: That is a small matter.

The Witness: It was called a petition for the simple reason that they asked the men to sign it. This was the one that was on the clock and the one they sent out to sign had that written in small spacing. In other words, there was a narrow spacing on the typewriter at the top of the page and they wanted us to sign in under it.

Q. (By Mr. Harrington) As a matter of fact this is a copy, [207] is it not?      A. Yes.

Mr. Harrington: This is a copy, Mr. Examiner.

Trial Examiner Hektoen: Do you offer it in evidence?

Mr. Harrington: Yes.

Mr. Riggs: No objection.

Trial Examiner Hektoen: Board's Exhibit 15 is admitted.

(Thereupon the document heretofore marked for identification as Board's Exhibit No. 15 was received in evidence.)

(Testimony of Arthur J. Fisher, Jr.)

BOARD'S EXHIBIT No. 15

(Copy)

Consolidated Aircraft Corporation  
San Diego, California

13 December 1941

NOTICE TO ALL EMPLOYEES

In line with President Roosevelt's desire for a 7 day work week, those employees who volunteered to work Sunday without pay may do so. These men are not to ring their time cards. Other employees who signify in writing that they desire to work Sunday at time and one-half will ring their time cards and be paid accordingly. The above applies to certain jobs in Jigs and Fixtures, Tool Room, Machine Shop, Fuselage, Paint Shop, Sheet Metal, Metal Bench, Welding, and black out painting. No other departments will work.

I. M. LADDON

Works Manager

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Q. (By Mr. Harrington) You say McMahan showed you the petition? A. Yes, sir.

Q. And what occurred then?

A. I told him, McMahan, that they could not negotiate with the company—oh, no, not negotiate—that the A. F. of L. held the agreement and contract with the Consolidated and anything that the

(Testimony of Arthur J. Fisher, Jr.)

workers discussed would have to be discussed through the Local.

Q. Were Pyett and Harkins present at that time?      A. Yes, sir.

Q. And what did you do after talking to McMahan?

A. After talking with McMahan I went to the telephone in my department—returned to my department and went to the telephone and called Mr. Newman. Mr. Newman told me that he didn't know there was a petition in the Parts Plant but [208] he knew there was one in the Home plant and the workers had signed it.

Q. Did anything else occur in this conversation?

Trial Examiner Hektoen: Who is Mr. Newman?

The Witness: Mr. Newman was the plant manager of the Parts Plant.

Mr. Riggs: Of the Parts Plant?

The Witness: Yes, the Parts Plant.

Mr. Riggs: Mr. Examiner, you might understand that the Parts Plant is separated from the main plant by nearly a half mile.

Trial Examiner Hektoen: I so gathered.

Q. (By Mr. Harrington) What did you do then?

A. I told Mr. Newman that I would see him on my way out from work, because it was at that time about 3:25 and we quit at 3:30.

I returned to my department and put my tools away and went down to the foreman's desk to get permission from him to go and see Ted Stark, the man who was foreman over this painter.

(Testimony of Arthur J. Fisher, Jr.)

Q. What was Ted Stark's title or his position, do you know?

A. He is the foreman of the wood mill.

Q. And did you see Ted Stark?

A. Yes, sir. [209]

Q. Where did you see him?

A. I seen him approximately, maybe 28 minutes after 3:00 because the whistle blew while I was talking to him.

Q. And where did you see him?

A. In the wood mill.

Q. And what happened there?

A. After I had talked to Ted Stark I explained to him that he was not allowed to send out a petition and have workers sign it, and that it was against the Wagner Labor Act to do so, and also against our contract with the Consolidated Aircraft.

Q. What happened then?

A. I left Ted Spark's office to go to Mr. Newman's office. As I left Ted Stark's office Ted Stark got on his bicycle and started out, where to, I do not know.

Q. And what did you do—what did you do?

A. I continued on to Mr. Newman's office. On the way to Mr. Newman's office I heard them call on the loud speaking system for Ted Stark. As I passed the watchman's shanty between buildings 2 and 3 Ted Stark rode up and got off his bicycle and went in and talked on the telephone.

Q. Could you hear what he was saying over the telephone?



(Testimony of Arthur J. Fisher, Jr.)

A. I did not. I didn't go near him.

Q. Did you go on to Newman's office?

A. I continued right on into Mr. Newman's office. [210]

Q. What happened there?

A. As I entered the door to Mr. Newman's office, Mr. Newman said "Here is Fisher now, Ted, I will take care of him."

Q. Then what happened?

A. After he had hung up the receiver he turned to me and called me a slant-eyed Jap lover, a Hitlerite, or "What are you, a God damned Communist?"

Q. Was anyone else present at that time?

A. Mr. Newman's secretary and also a lead man named Smith who was lead man over the crane men was in his office.

Q. Was anything else said at that time?

A. Yes. Mr. Newman also stated to me that "Fisher, you are treading on thin ice; after the first of the year you are all done."

Q. Was there any other further conversation?

A. How is that?

Q. Was there any other further conversation?

A. After he said that I tried to explain to him.

Q. What did you say?

A. I said to Mr. Newman that "You know that this is a direct violation of the Wagner Act and also our contract," and he told me to get the hell out of there and stay out.

(Testimony of Arthur J. Fisher, Jr.)

Q. What were you referring to when you said that?

A. That this petition that they had put out asking the [211] workers to sign to work Sunday for nothing.

Q. Was there any further conversation?

A. That was all there was because I left then.

Q. At the time you worked for the company were there maintenance men and janitors employed?

A. Yes, sir.

Q. Where did these men work?

A. They worked in and out of the plant—maintenance of the plant and also keeping the yard clean.

Q. Did you attend any meeting with respect to those people?

A. When I was first elected committeeman in the Home plant I attended a meeting early in 1941 in Jim Kelly's office, the then plant manager, in the presence of Herman Wiseman, Bud Waterbury, Jim Kelly for management, Walter Chudleigh, president of our local, all the committeemen of the Home plant and myself.

Q. And what occurred at that meeting?

A. It was brought up—the question of the janitors working outside in the rain was brought up and Mr. Kelly stated "All men working in the rain in the maintenance department will be furnished with raincoats, boots and rubber hats, if it was necessary for them to work in the rain."

Q. Was this matter taken up again at any time?

(Testimony of Arthur J. Fisher, Jr.)

A. Late in 1941, in December—in fact, on December 16th at our meeting with management, committee meeting with manage- [212] ment, it was brought up.

Q. Who attended that meeting?

A. Brother Felton, our business representative, all the committeemen of the Parts Plant, and myself, I acting as chairman of the meeting.

Q. And what occurred at that meeting?

A. Mr. Powell, Mr. Golen and Mr. Larimore were present for management.

It was brought up here about the janitors working in the rain without raincoats or boots. Mr. Powell said that the men would be treated here as they are in the Home plant, that they would be furnished coats and boots if they were furnished them in the Home plant.

Q. Were they furnished boots and raincoats after that? . A. No, sir; they were not.

Q. How do you know?

A. Because on the first day of January, 1942, as I come in to work I passed where the janitors checked in their brooms and shovels in the morning, and a janitor stopped me and he was wringing wet from head to foot, and he told me that they had to work all night in the rain without raincoats or boots, or hats.

Q. Who told you that?

A. I do not recall the janitor's name.

A. Did you do anything about this? [213]

A. I told this janitor to see the committeeman,

(Testimony of Arthur J. Fisher, Jr.)

A. J. Slaughter, and explain to him and have Slaughter see me.

Q. Did you do anything else?

A. On my way upstairs to work I, as soon as I went up in my department, I met my then supervisor, Elmer Gaulbeck, and I explained to Elmer that I may have to leave my job that morning in regard to the janitors.

Q. What did Gaulbeck say?

A. Elmer said to me, "It is O. K. with me."

Q. And did anything else happen about this matter on that day?

A. That morning about 9:00 o'clock A. J. Slaughter came to me and asked me if I would go and speak to Larimore about it as to why the day shift janitors were made to work in the rain also.

Q. And what did you do then?

A. After he had talked to me I went to the clerk and asked him for a Rover's button.

Q. Who was the clerk you went to?

A. Don Kimball.

Q. And what do you mean by "a Rover's button"?

A. A Rover's button is a red button the size of this gentleman's button over here (referring to Mr. Riggs) only it has—it is a plain red button with a big "R" on it and you must have this button in order to leave your depart- [214] ment or to go from one building to another.

Q. You say you saw Kimball. Did you say he was a clerk?

(Testimony of Arthur J. Fisher, Jr.)

A. Don Kimball was Mineah's, our foreman's, head clerk.

Q. What happened when you saw Kimball?

A. He referred me to Petit.

Q. Who is he?

A. He is the other clerk—he is Kimball's assistant, and he told him to give me a Rover's button.

Q. Did you have any conversation with him?

A. I told him I had spoke to Elmer Gaulbeck and Elmer had given me permission to leave my job.

Q. And what happened then?

A. Then I received my Rover's button and Slaughter and I started for the personnel office. Slaughter said to me, "We better see Bill Gregory," the lead man of the janitors, before we went to the personnel office and explain to him what happened in this meeting with management on December 16th.

Q. Did you do that?

A. We started to see Bill Gregory through Building No. 2 from the Parts Plant. In the center of the building Mr. Newman, Mr. Powell, Mr. Golen were standing waiting on me to get to them.

Q. What happened then?

A. Mr. Newman stopped me and asked me where I was going. I told him where I was going. He reached up and snatched [215] the Rover's badge off of my shirt, tearing the shirt and said to me, "Who the hell give you that button? You get back on the job and stay there or out you go."



(Testimony of Arthur J. Fisher, Jr.)

Q. What happened then?

A. I returned to my job immediately.

Q. When you returned to your job what happened then?

A. I met my supervisor, Elmer Gaulbeck. When I went up the stairs he was standing at the top of the steps and he seen that I was mad and followed me over to my place of work and asked me what was the matter.

I explained to him the first time in my life that I ever left my job and failed to do my duty to the union and also to the workers was that time. I told him that Newman had told me to go back to my job and stay there.

Q. What happened then?

A. In a few minutes, a matter of maybe four or five minutes, Elmer Gaulbeck was called down to the foreman's desk by the clerk. The clerk, in my presence, told Elmer Glaubeck that George Newman wanted to see him at the foreman's desk.

Q. What occurred after that?

A. Gaulbeck went down to the foreman's desk and about five minutes later he returned and said, "Fisher, Newman wants you, too."

I went with Elmer Gaulbeck down to the foreman's desk and George Newman says, "Did you have permission from your [216] foreman, Mineah, to leave your job?" I said, "No, sir, I did not. I have followed the procedure that I have always used."

(Testimony of Arthur J. Fisher, Jr.)

George Newman turned to Mineah and told Mineah to make out "his time, he is all through."

Q. And were you discharged then?

A. I was discharged at 9:30 New Years morning of 1942.

Q. What had been your practice when you were obliged to leave your department?

A. Whenever I left my department I always done the same as all of the rest of the committeemen.

Q. What was that?

A. Go to the foreman's desk, and if the foreman wasn't there, notify the clerk of where I was going, so that if the foreman returned during my absence he would know where I was at.

Q. Did you receive telephone calls in the plant?

A. Yes, sir; I did.

Q. And what was the practice?

A. Many of them.

Q. What was the practice as to that?

A. The clerk would always call me to the telephone until after December, around the 13th—the middle of December—I think it was around the 13th.

Q. What happened at that time—what change was made? [217]

A. One morning about 9:00 o'clock Mineah came up to me and——

Q. Who do you mean?

A. Mineah, the foreman, and said to me, "You cannot use the phone to call in and out of the plant

(Testimony of Arthur J. Fisher, Jr.)

any more, and nobody can call you to the phone.”

Q. Had you received the permission before that time to leave?

A. Yes, sir; I had always received the permission from him and also from Steve Powell to leave the plant or leave the building, rather, or to leave my department.

Q. Was anything else said about that matter at that time?

A. A little while after Mineah talked to me Elmer Gaulbeck came to me and told me that I could not be called to the phone. Also my lead man, Bill Larson, told me the same thing during the day. I don't recall just what time it was.

Q. Where did they tell you that?

A. In my department at my place of work.

Q. And who was present?

A. Nobody, only the two of us, whoever one it was, Gaulbeck or——

Q. Did you stay in your department after that?

A. I did up until, oh, I don't know—it was in January, no, it was on December 29th. Now I remember it was on December 29th. I went to the foreman's desk to get permission [218] to go to the personnel department.

Q. And who did you see at the foreman's desk?

A. I seen Mr. Mineah.

Q. And what happened at that time?

A. Brother Harkins and Thomas of Department 65 wanted to go to the personnel department to find out about a man's vacation pay and as plant chair-

(Testimony of Arthur J. Fisher, Jr.)

man I had to go with them and they came there and we went to the foreman's desk. They were with me when I got the Rover's badge from Mr. Mineah's clerk.

Q. Who is Harkins and Thomas?

A. Harkins and Thomas were committeemen of Department 65.

Q. You say you got a rover's button from the clerk?

A. Yes, sir.

Q. Did you see the foreman that day?

A. Yes, Mr. Mineah gave me the button—he had the clerk give it to me, rather.

Q. Did you leave your department at any other time after that?

A. Oh, I left my department several times during the month of December, and went in twice or three times with Chudleigh and Felton, our business representatives on grievances into Larimore's office. Also was in conference with Brother Felton and committeemen from the maintenance department with a man named Bowers, who was—I don't know, [219] industrial relations director or something for Consolidated. He was newly appointed to that job and I had sent a letter to Major Fleet and it was referred to him.

Q. And what procedure did you follow in leaving your department?

A. Any time that I left I always went to the clerk or the foreman, if he was at the desk, or the assistant foreman and received permission to leave my department.

(Testimony of Arthur J. Fisher, Jr.)

Q. And was anything said about that?

A. No, sir.

Q. At any of those times?

A. Only this one time. Whenever I was leaving Larimore's office with Brother Harkins and Brother Thomas and they walked on and Mineah said to me, Mr. Mineah said to me, the foreman in my department—just give me time to think about it. As we left Larimore's office Mr. Mineah was coming down the hall and he stopped me and said to me, "I thought I told you not to leave your department."

I said, "I had permission from Steve Powell and I have always regarded that with you and with Mr. Powell—" that is wrong. "Anyhow, I always notified your clerk or you if you was there that I was leaving and I notified your clerk where I was going and came in here with Brother Harkins and Brother Thomas." There is a lady present so I won't say just what he said, but he did turn to me and say—— [220]

Q. Tell what he said.

A. I told him Mr. Kelly gave us permission whenever I was down at the home plant, to leave the department and come to his office or to the personnel office, and I says: I always tried to go through with that, as I had agreed with Steve Powell to do, by notifying the clerk, and Mr. Mineah said to me: I don't give a God damn what Mr. Kelly told you; Kelly's not running this plant, and you will do as I say or get out.



(Testimony of Arthur J. Fisher, Jr.)

Q. Did you do anything about that?

A. Yes, sir. I wrote a grievance sheet out and presented the duplicate to Brother Felton, our business representative, and it was brought up at the management meeting with the union.

Mr. Harrington: Will you mark this as Board's next exhibit for identification?

(The document referred to was marked as Board's Exhibit No. 16 for identification.)

Q. (By Mr. Harrington) I show you a paper I have marked Board's Exhibit No. 16. Can you identify that?

Trial Examiner Hektoen: That is your grievance, isn't it?

The Witness: Yes, sir.

Q. (By Mr. Harrington) Is this your signature on it? A. Yes, sir.

Q. Did I understand you to say you presented that grievance to the management? [221]

A. Yes, they were presented at our management meeting; for the management was Mr. Golem, Mr. Powell——

Q. Did you present this paper?

A. Yes, sir, that was presented at that meeting, a grievance was brought up at that meeting.

Q. Did you retain it, or what, I mean, after you presented it?

A. Brother Felton had the duplicate of this copy and I kept this copy in my file, as chairman of the plant. I was chairman of the meeting, and

(Testimony of Arthur J. Fisher, Jr.)

any grievance that was brought up at meetings of the management was kept.

Mr. Riggs: May I ask a question about this?

Mr. Harrington: Surely.

Mr. Riggs: What is the date you say you made this out?

The Witness: That was in the month of December.

Mr. Riggs: There isn't any date on it.

The Witness: The management meeting was on the 16th day of December.

Mr. Riggs: When was it this grievance you put forth on this form took place, this conversation? What date?

The Witness: When Mineah talked to me?

Mr. Riggs: Yes.

The Witness: The exact date I don't know.

Q. (By Mr. Harrington) Do you recall what part of the year it was? [222]

A. I don't remember the exact date, what date it was.

Trial Examiner Hektoen: Presumably it was during December, wasn't it?

The Witness: It was early in December; it was right previous to the meeting, I know that.

Trial Examiner Hektoen: To the meeting on the 16th?

The Witness: Yes.

Mr. Riggs: Identifying this for the record: This purports to be a grievance form, undated, name: Arthur J. Fisher, in pencil signed A. J. Fisher.

(Testimony of Arthur J. Fisher, Jr.)

Mr. Harrington: I offer that in evidence as Board's Exhibit No. 16.

Trial Examiner Hektoen: Any objection?

Mr. Riggs: I object to that as immaterial.

Trial Examiner Hektoen: It will be admitted.

(Thereupon the document heretofore marked for identification was received in evidence and marked as Board's Exhibit No. 16.)

### BOARD'S EXHIBIT No. 16

#### Grievance Form

Aeronautical Mechanics Lodge 1125 I. A. M.

San Diego

Date.....

Name—Arthur J. Fisher

Address—3670 Keating St. City—San Diego

Dept.—69 Rate of Pay..... Previous Dept.—19

Rate of Pay..... Years Service—2 Clock

No. 34195 Shift—Day Foreman—Minieah

Lead Man—Larson How Long Worked on Present Job—18 months

Description of Present Duties.....

Grievance Statements by Mr. Minieah. Fisher you will have to stay on the job from now on. “—”

What is wrong now I notified your clerk I was going into see Mr. Newman & Mr. Laramar with two Com from Dept #65. I am allowed this time I think if you find it out. I know I was allowed this time in the home plant by Mr. Kelly. “Min” I don't give a God Dam what Kelly allowed you you are not at the home plant now & if you do it again I will fire

(Testimony of Arthur J. Fisher, Jr.)

you. “—” Now Min don’t get hot cool of & we can talk this over. “Min” I am hot & I will not cool of if you do it again you will hunt a new job.

A. J. FISHER

Signature

-----  
-----  
-----

Shop Committee.

Office:

Time Rec’d .....

Date Rec’d.....

Date Presented.....

Date Concluded .....

Result .....

Date of Notification of Result.....

—

Q. (By Mr. Harrington) You say you presented that grievance at the December 16th meeting?  
A. Yes, sir.

Q. What happened at that meeting?

A. At this meeting?

Q. Who was present at that meeting?

A. Mr. Powell, Mr. Golem, two assistant plant managers, [223] and Mr. Larimore, personnel man.

Q. Was anyone else present?

A. Brother Felton, all the committeemen of the parts plant, and myself, I acting as chairman of the meeting.

Q. What occurred at that meeting with respect to this grievance?

(Testimony of Arthur J. Fisher, Jr.)

A. In respect to this grievance it was brought up, the grievance was brought up, and I read it, and Mr. Powell made the statement he would talk to Mineah and put him on the right track.

Q. Was anything else said?

A. Mr. Powell says: He and I always get along together and he had agreed to let me do certain things, and he would see I continued to do them.

Mr. Harrington: You may examine, Mr. Riggs.

Trial Examiner Hektoen: We will take a short recess before the cross examination.

(Short recess.)

Mr. Harrington: I have another question or two I should like to ask.

Trial Examiner Hektoen: Very well.

Q. (By Mr. Harrington) Mr. Fisher, did you engage in any union activities other than you have testified to while you were an employee of the company?

A. When I first went to work at Consolidated in the punch [224] press department, under the contract at that time we couldn't do any organizing during working hours, but I used to talk to the men at noon, also in the mornings, before we went to work, and I used to contact them after we left the shop in regard to belonging to an organization of some kind which would be either union, to benefit their conditions in this country of ours.

In other words, raise your living standards.

I showed them the benefits of the unions.

Q. How often did you do this?



(Testimony of Arthur J. Fisher, Jr.)

A. At every opportunity I had except during working hours. I always done my work and stayed on my job.

Q. How long did that continue?

A. All the time I was in the punch press department and I had every man in there in the union.

Q. Did you engage in any other union activities?

A. Not exactly, only the organization of that particular department, but I used to talk to other men in other departments, and also tried to get them to do the same thing I was doing in my particular department.

Q. How many men were in that department?

A. Oh——

Mr. Riggs: Which department do you mean?

Q. (By Mr. Harrington) The punch press department.

A. Punch press department and bench department was all one; [225] it was all under Hank Liegal, and I will say there was 300 men in that department.

Mr. Harrington: I have no further questions.

#### Cross Examination

Q. (By Mr. Riggs) When you went to work for the punch press department in December, 1939, that was in plant No. 1, was it not?

A. Yes, sir.

Q. That was before the opening of the parts plant?

(Testimony of Arthur J. Fisher, Jr.)

A. It was before building No. 2 was ever built at the home plant.

Q. And the foreman was Mr. Liegal, and was your lead man Mr. Edward Raymond?

A. Yes, sir.

Q. During the time you were in that department didn't Mr. Raymond reprimand you a good many times?

A. No, sir.

Q. Not at all?

A. Never.

Q. Didn't he ever tell you you must not leave your punch press and the department without permission?

A. No, sir.

Q. Hadn't you ever left your department without permission?

A. I had never left my punch press at any time during working hours. [226]

Q. And you had not engaged in union activities on company time during that time?

A. No, sir, I did not.

Q. You swear to it?

A. Yes, I absolutely will.

Q. And that Mr. Raymond never reprimanded you for being lax in your work, or leaving your punch press or your department without permission?

A. No, sir, he never did.

Q. Did Mr. Liegal ever reprimand you for being lax in your work or leaving the department without permission?

A. No, sir, he did not.

Q. Not during the time you were in the punch press department?

A. No, sir.

Q. Didn't Mr. Liegal tell you Mr. Raymond had

(Testimony of Arthur J. Fisher, Jr.)

made complaints to him that you had broken a die and attempted to conceal the fact from the lead man?

A. No, sir. I never broke a die at Consolidated.

Q. Didn't Mr. Liegal tell you that at Mr. Raymond's request he was transferring you to the cowl-ing department?

A. No, sir, he did not. I asked for the transfer.

Q. Didn't Mr. Liegal tell you the request had been asked for in the hopes your work would improve? A. No, sir, he did not. [227]

Q. Then you went to work for Walter Borg, who was lead man in the cowl-ing department, didn't you? A. Yes, sir.

Q. Walter Borg was a member of the union, was he not? A. Yes, sir.

Q. Did he ever reprimand you for being lax in your work or leaving your department?

A. No, sir. I never left my department while I was working for Walter Borg.

Q. Did Mr. Borg tell you he had asked for your transfer, that you be removed from his department? A. No, sir, he did not.

Q. You were removed from his department and transferred elsewhere, weren't you?

A. No, sir, I was not.

Q. You were discharged, however by Mr. Liegal on July 26, 1940? A. Yes, sir.

Q. And that discharge was based upon, as I

(Testimony of Arthur J. Fisher, Jr.)

think you stated, upon your slip, that you were unqualified?      A. Yes, sir.

Q. Then, after talking about this with Mr. Bentley, who was the grand lodge representative, and Mr. Jack Waskey, they took up your discharge with Mr. Kelly?      A. Yes, sir. [228]

Q. Mr. Jack Waskey was president of the union, wasn't he?      A. Yes, sir.

Q. At that time you had no union position, did you?      A. No, sir.

Q. Did Mr. Waskey tell you that your reinstatement had been agreed upon providing Mr. Waskey would take you back into his department and guarantee your behavior in the future?

A. He didn't make that statement to me.

Q. Did you ever hear him make that statement to anybody?      A. No, sir, I did not.

Q. You say he never told you he was to be responsible for your staying on the job and not leaving the department in the future?

A. No, sir, he did not.

Q. Mr. Walter Borg was also a union shop committeeman, wasn't he?      A. Yes, sir, he was.

Q. And it was, as such, his duty to investigate grievances?

A. Yes, sir. May I say something in there though?

Q. I will ask you questions. Mr. Waskey was not only the president of the union, but he was chairman of the union shop committee, wasn't he?

A. Yes, sir.

(Testimony of Arthur J. Fisher, Jr.)

Q. He is now foreman of the PB-2-Y3 primary assembly? A. That I don't know. [229]

Q. Didn't he tell you that he had tried you under several lead men and found you an unsatisfactory worker, and he finally requested Robert Mohr, a lead man in the wing department, to give you a chance in his department?

A. He didn't tell me that, no.

Trial Examiner Hektoen: Is that supposed to be Waskey?

Mr. Riggs: Yes.

Q. (By Mr. Riggs) At the time of your reinstatement didn't he tell you that?

A. No, sir, I didn't work for Mohr. Furthermore, I wasn't reinstated. Please don't use the word. I was rehired. The company still owes me two weeks' wages; they haven't paid it yet.

Q. Did Mr. Waskey not tell you several lead men had complained to him that you were an unsatisfactory worker and that he had finally requested Robert Mohr to give you a chance in his department, and that you were transferred to his department upon Mr. Waskey's statement he would be responsible for your conduct?

A. He didn't make that statement to me.

Q. Did he make any one of those statements at all? A. No, sir.

Q. So far as you knew, your rehiring was based entirely upon no condition whatsoever that Mr. Waskey would look out for your conduct in the future? [230]



(Testimony of Arthur J. Fisher, Jr.)

A. No, sir, not to my knowledge. I don't need no guardian.

Q. You became a union committeeman when?

A. In December of 1940, I was the committeeman for 1941. I was elected at the election.

Q. All during 1941; and as union committeeman you kept abreast of all the bulletins that were published by the company, did you not?

A. Yes, sir.

Q. You are familiar with this one of the 23rd of July, 1941, signed by G. J. Newman, parts plant factory manager?

A. Yes, sir, I have a copy of that in my personal records.

Mr. Riggs: I offer in evidence as Consolidated's No. 2——

The Witness: Mr. Newman also——

Mr. Riggs (Continuing): ——memorandum to shop personnel, subject: Leaving the department, signed: J. G. Newman, parts plant factory manager.

(The document referred to was marked as Respondent's Exhibit No. 2 for identification.)

Trial Examiner Hektoen: Have you any objection?

Mr. Harrington: We have no objection.

Trial Examiner Hektoen: It will be admitted.

(Thereupon the document referred to, heretofore marked for identification, was received in evidence and marked Respondent's Exhibit No. 2.)

(Testimony of Arthur J. Fisher, Jr.)

RESPONDENT'S EXHIBIT No. 2

(Copy)

No. 1

Consolidated Aircraft Corporation  
Lindbergh Field, San Diego, Calif.  
Parts Plant  
23 July 1941

Memo to: Shop Personnel

Subject: Leaving the Department

With the exception of those men who have been duly designated by their Foreman for contact work between the Home Plant and the Parts Plant, no one is permitted to leave their department without the permission of the Foreman in charge. Unauthorized departure or aimless wandering about the buildings of the Parts Plant will be cause for immediate dismissal.

G. J. NEWMAN (Signed)

G. J. Newman

Parts Plant Factory Manager

---

Q. (By Mr. Riggs) After your rehiring you went to work [231] under Mr. Robert B. Mohr, who was then a lead man in the wing department plant too, did you not?

A. No, sir, I did not.

Q. Who did you work for?

A. I worked for Bill Jensen.

Q. Wasn't Robert B. Mohr the lead man in the department?

A. No, sir, Bill Jensen was acting as lead man.

(Testimony of Arthur J. Fisher, Jr.)

Q. Where was Robert B. Mohr?

A. He wasn't in the department where I was working when I was rehired.

Q. When did you work for Robert B. Mohr as lead man?

A. After I had been back about two months, three months.

Q. After you had been back about two months, then you went to work in the department for which Robert B. Mohr was lead man? A. Yes, sir.

Q. How long did you work for him?

A. Until they started the new department; I couldn't state. I don't recall just how long.

Q. Would you say about five or six weeks?

A. I wouldn't say.

Q. Months?

A. No, sir; longer than that, but I don't recall just now; until they started this new department.

Q. While you were working with Mr. Mohr, didn't he [232] reprimand you on various occasions for leaving the department without his permission?

A. No, sir, I never left the department, only with permission of the supervisor, Mr. Waskey.

Q. You state Mr. Moore never at any time while you were in that department reprimanded you for leaving without his permission?

A. I didn't have to have Mr. Mohr's permission.

Q. Answer my question: Did you have such a conversation——

(Testimony of Arthur J. Fisher, Jr.)

A. I answered your question, my dear friend. I said I didn't have to have his permission.

Trial Examiner Hektoen: You haven't answered the question. Did he ever reprimand you for leaving the department?

The Witness: Not for leaving my job, he didn't.

Q. (By Mr. Riggs) Do you make a distinction between leaving the job and leaving the department?

A. Yes, I do. I went to Mr. Kelly's office one time to show him some clamps I made to hold the angles.

Q. Did Mr. Mohr at any time while you were in his department reprimand you for leaving your job without his permission?

A. I didn't have to have his permission. I still say: No.

Q. Did he ever reprimand you for leaving the department without his permission? I will ask you that again. [233]

A. I still didn't have to have his permission.

Q. Is your answer no? A. No.

Q. Did Mr. Mohr tell you that you should stop a habit that you had of telling everybody how to do their work, and how it should be done?

A. I never told anybody how much work or how to do their work.

Q. You never interfered with other fellow workers, telling them how to do the job?

A. Never interfered; I have often showed men how to work up a job, to do it easier, to do more

(Testimony of Arthur J. Fisher, Jr.)

work in one day that we did before. I never held up production. I advanced production.

Q. Did Mr. Mohr ever reprimand you while you were in the department, stating that various men in the department complained because you were interfering with them and bothering them while they were doing their work? A. No.

Q. He never did? A. No.

Q. Not at any time. We have got to the latter part of 1941 and of all the foremen and lead men you have worked under, none ever complained about you?

A. I didn't work under Mohr in the latter part of 1941. [234]

Q. Let me state the question again: You started out working for Raymond and Liegal; then you got under Mr. Walter Borg; then you transferred to somebody else when you were rehired, for a couple of weeks. Who was that?

A. When I was rehired?

Q. Yes, for the first two or three weeks.

A. I worked more than two or three weeks for Bill Jensen. I worked a couple of months until he ran out of gas tank corners.

Q. Did you then transfer to Mohr?

A. It is all in the same department.

Q. You were under Mohr for how long a time? Five or six weeks? A. More than that.

Q. None of these men at any time, whose names I have mentioned, have had conversations with you in which they spoke to you about leaving the de-



(Testimony of Arthur J. Fisher, Jr.)

partment without permission? This had never been brought up?

A. No, sir, they didn't have nerve enough. They are like a lot of people.

Q. That's enough. That's your answer.

Did Mr. William Larsen, while you were working for him, ever tell you to lay off telling the men around you how to perform operations?

A. Yes, sir. [235]

Q. Did he tell you he would have to correct the men for performing operations in the way you told them how to do it?

A. Yes, sir.

Trial Examiner Hektoen: I missed that somewhere. Who is Mr. Larsen?

Mr. Riggs: Mr. Larsen was lead man in the wing department, No. 69, plant No. 2, at the time of his rehiring.

Q. (By Mr. Riggs) Was he not?

A. No, sir.

Q. What was he, then?

A. I was rehired in Plant No. 2.

Q. Tell me who Mr. Larsen was and what department it was. The examiner wants to know.

A. I want to know if I have to answer all the questions that he is supposed to have the answer for.

Trial Examiner Hektoen: Yes, you do. Who is Mr. Larsen?

The Witness: Mr. Larsen was lead man in the spar division in the parts plant, in Department 69.

(Testimony of Arthur J. Fisher, Jr.)

Q. (By Mr. Riggs) And the foreman of that department was who?

A. The foreman of the department, when we moved up there, was Mr. Steve Powell.

Q. Did Mr. Steve Powell ever have any conversations with you about leaving your department?

[236]

A. Yes, sir.

Q. While you were under his jurisdiction?

A. Yes, sir.

Q. What was that conversation?

A. That is my testimony right there now. I told that before.

Q. I would like to hear it again.

Did he tell you you couldn't leave without his permission?

A. No, sir. Steve Powell gave me, when I was first elected committeeman, in the first week of January, '41, permission to leave my department by notifying him or his clerks, Don Kimball or Jimmy Innis at any time he wasn't there at his desk, so he would know where I was at any time I wasn't on my job.

Q. How long were you under Steve Powell?

A. Until Mr. Mineah was brought on days and made foreman of the wing department in the parts plant. That exact date I do not know.

Q. I will show you another bulletin dated the 26th of August, 1941, signed: G. J. Newman, parts plant factory manager, and ask you if you saw that when it was published.

A. Yes, sir.

(Testimony of Arthur J. Fisher, Jr.)

Mr. Riggs: I offer that in evidence as Consolidated's Exhibit No. 3. [237]

(The document referred to was marked as Respondent's Exhibit No. 3 for identification.)

Trial Examiner Hektoen: Is there any objection?

Mr. Harrington: No objection.

Trial Examiner Hektoen: It is admitted as Respondent's Exhibit 3.

(Thereupon the document referred to, heretofore marked for identification, was received in evidence and marked Respondent's Exhibit No. 3.)

### RESPONDENT'S EXHIBIT No. 3

(Copy)

No. 5

Consolidated Aircraft Corporation  
Lindbergh Field, San Diego, Calif.

Parts Plant

26 August 1941

Memo to: All Department Heads

It has been noted recently that men in some departments are being lax about starting and quitting. A three minute warning whistle is provided which allows the men ample time to report to their jobs and be ready to start work. At quitting time at night, the men are rushing the clocks in an attempt to punch out at 5:30 as if their very life depended upon it. These practices must be discontinued.

(Testimony of Arthur J. Fisher, Jr.)

A great number of men are roving the shop during working hours. Some have legitimate reasons for doing so, while others are merely sight-seeing. Bright red buttons are being issued to the foremen, who will see each man leaving the department is supplied with one, who will return same when mission is completed. With the exception of the below named departments, any man found out of his department without one of these "roving" buttons will be sufficient cause for dismissal:

Mechanical Maintenance—Department #61.

Electrical Maintenance—Department #61.

Stock and Material Chasers—Department #58.

Receiving and Shipping Clerks—Department #58.

Janitors—Department #83.

G. J. NEWMAN, (Signed)

G. J. Newman

Parts Plant Factory Manager.

GJN:nr

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Q. (By Mr. Riggs): Respondent's Exhibit No. 2 of July 23, 1941 stated that no one was permitted to leave his department without permission of the foreman in charge. You are familiar with that?

A. Yes, sir.

Q. And that unauthorized departure or aimless wandering around the buildings be cause for immediate dismissal?

A. Yes, sir.

(Testimony of Arthur J. Fisher, Jr.)

Q. After that bulletin was published did you at any time leave your department?

A. Yes, sir.

Q. And you want the Court to understand that every time you left your department you had permission of the foreman?

A. This—may I answer the way I want to answer?

Q. You may answer any way you want to.

A. This was brought up; I immediately went to George Newman [238] on that when they put it on the board and asked him if that included me and the other committeemen in the plant, and he said: No.

Q. In other words, he told you that it didn't apply to committeemen?

A. No. We had arrangements made with the foreman what to do, previous to this being out. This was put out in 1941. We had arrangements back as far as 1939, what to do.

Q. The next one of August 26th applied to committeemen as well as to anybody in the plant, did it not?

A. No, it did not.

Q. About Rover's buttons? A. Yes.

Q. You had to have a button to leave your department, did you not?

A. Yes, sir, Rover's buttons.

Q. In other words, to obtain a button you had to have the permission of the foreman?

A. No, sir.



(Testimony of Arthur J. Fisher, Jr.)

Q. It says here: Bright, red buttons are being issued to the foremen, who will see each man leaving his department is supplied with one, who will return same when the mission is completed.

A. Yes, sir.

Q. Was that brought to your attention? [239]

A. Yes, sir.

Q. Did you go to the foreman?

A. We didn't have to go to the foreman. If the foreman was there, we went to him.

Q. That was your interpretation of this: That you didn't have to go to the foreman?

A. No, sir, that was my agreement with Mr. Steve Powell the first week in January of 1941 when I was elected committeeman.

Q. The first week of January of 1941 was some eight months prior to publication of this bulletin in August, 1941, was it not?

A. Steve Powell was assistant plant manager at this time, and I asked him if that stood for the committeemen and the plant chairman, which was myself at the time, and he says: "No." He says: "You continue to do the same thing you have done in the past, follow the same procedure."

Q. That was when the July bulletin was published?

A. All of them; I have went to him for every one that was issued.

Q. You did tell him about this one, and he told you this didn't apply to you or anybody?

A. Yes; it didn't apply to committeemen or the

(Testimony of Arthur J. Fisher, Jr.)

plant chairman; they were to follow the same procedure as they had [240] been doing, which we have done at all times, to see the foreman or the foreman's clerks.

Q. What department were you in in December of 1941 when you were out of your department at that time?      A. December of 1941?

Q. Yes.

A. I wasn't out of my department in 1941. 1941? When I was out of my department I was working for Bill Larsen, Elmer Gaulbeck was my supervisor.

Q. Prior to your dismissal, that was in July, 1940?      A. Yes, sir.

Q. When this question came up about time or overtime, and the union received a communication from Major Fleet about changing the terms of the agreement, and you opposed it in the union agreement——      A. I was what?

Q. You opposed it in the union meeting.

A. Yes, sir.

Q. Wasn't there a few people who spoke for it?

A. Yes, sir.

Q. There was some division of opinion about it, wasn't there?      A. Only one or two.

Q. Was any reason given by Major Fleet as to why he thought the change might be made? [241]

A. Yes, he gave a reason.

Q. What were his reasons?

A. Whose reasons?

Q. Major Fleet's.

(Testimony of Arthur J. Fisher, Jr.)

A. Major Fleet's reasons?

Q. Yes.

A. He wanted to work us 40 hours a week so he wouldn't have to pay us time and a half in any one day. He wanted to work us 10 hours.

Q. Didn't he think that would speed up production?

A. No, he didn't think it would speed up production; he still don't want to.

Q. You are sure about it?

A. Quite sure.

Q. This petition, as you call it, this bulletin, I think you stated they wanted men to work on Sunday without any pay whatsoever.

A. December 13, 1941.

Q. Yes. A. Yes, sir.

Q. You didn't read that part that anybody who wanted time and a half could have it?

A. Anyone that wanted time and a half could punch the time clock, and anybody that didn't could work for nothing.

Q. That applied to only five or six departments out of [242] 80 or 90, didn't it?

A. I don't quite get you.

Q. That referred to men in certain departments only? A. No, it didn't.

Q. What did it refer to?

A. It went plantwide.

Q. As I remember it, I thought it only went to a few departments. Are you sure about it?

(Testimony of Arthur J. Fisher, Jr.)

A. It went plantwide. I am sure about it.

Q. You thought that was an attempt to violate the union agreement?      A. I knew it was.

Q. The fact that war had been declared on December 7 had nothing to do with any suggestion of a change?      A. No, it hadn't.

Q. Or the President's request that production be speeded up to seven days a week?

A. The President didn't request what was on that bulletin.

Q. At the time Mr.—I want to have you give the Examiner the exact location of your position in your department on December 13. You were in the parts plant, and will you tell him how many buildings that consisted of?

A. The parts plant? I worked in the north end of the building, No. 3. I would say approximately 100 feet from the north end of the building. [243]

Q. Were you on the ground floor?

A. No, sir, I was in the second balcony.

Q. On the second balcony.

Where were you when you met Mr. Newman?

A. Mr. Newman? In Mr. Newman's office.

Q. I think you stated somebody brought to you a petition that had been handed to somebody and said that Ted Stark had asked him to sign it. Is that right?      A. No, sir, I didn't.

Q. Do you remember making an affidavit with reference to this matter, verified June 24, before Notary Edward L. Sickels?

A. An affidavit of what?

(Testimony of Arthur J. Fisher, Jr.)

Q. With reference to your discharge, the history of the relations with the company.

A. Will you read the affidavit? Do you have it here?

Q. Yes.

A. Could you read it so I know what's it all about?

Q. I am asking you if you made such an affidavit. A. On what date is this? [244]

Q. You made an affidavit sworn to and subscribed by you, on June 24, 1942, before Mr. Edward L. Sickels, as a basis of a complaint to the Labor Board, did you not?

A. "Sickels"? I don't even know who the man is. I can't think of who Sickels is. Who is Sickels?

Q. Sickels was the notary public.

Trial Examiner Hektoen: Do you remember making such an affidavit about that time?

The Witness: Could I hear the contents of the affidavit, some of it, so I can jog my memory. After all——

Q. (By Mr. Riggs): Well, don't you remember whether you made an affidavit or not?

A. I have made so many.

Q. Regardless of its content?

A. I have made and signed so many since the first day of this year it is pitiful, and I have copies of them all, but I would like to know a few words, so I can jog my memory.

Q. Look through your copies and see if you have one of June 24.



(Testimony of Arthur J. Fisher, Jr.)

A. I have nothing to do with anything that is in here—I don't know.

Q. I thought you said you had copies of all the affidavits.

A. I have—I don't carry everything with me.

Q. You haven't got them with you today?

A. No, sir. I have no reason to have them. I have my [245] mind and I can make use of it.

Q. So you don't know whether you made this affidavit or not?

A. I can't think of who Sickels is.

Q. On the 13th of—

A. I signed affidavits—

Q. On the 13th of December tell me again what happened, will you? You were on the second mezzanine floor at your job in your building, Building No. 3, about 100 feet from the north entrance, and what happened?

A. At approximately 3:15 on December 13th I returned from the toilet and the fellow working with me said to me, "Fisher, a painter was just here looking for you." I says, "Where is he?" He says, "He just went down the stairs."

In order to get to the stairs I had to leave my department and go through about 18 feet of what is called the tool room in order to get where I could see down the stairs. And I did so. And I seen a painter, namely, McMahan, at the foot of the stairs talking to Brother Harkins and Brother

(Testimony of Arthur J. Fisher, Jr.)

Pickett, the president elect of our local and also the committeeman for Department 65. I called——

Q. They were down at the foot of the stairs leading up to the mezzanine?

A. At the foot of the first mezzanine stairs. In other words, one flight of stairs, about 25 steps from where I was [246] standing.

Q. Well, are there two mezzanine floors there?

A. Yes, sir.

Q. And yours is on the——

A. I was on the second.

Q. Your job was on the second and they——

A. They were on the first.

Q. They were on the first between the second and ground floor?      A. Yes, sir.

Q. Then what happened?

A. McMahan held this sheet of paper up and showed it to me and I went down the stairs to see what it was, and he showed it to me, and he asked me what he should do about it and I told him that he could not sign it and not to sign it because it was in direct violation of our agreement and also in direct violation of the Wagner Labor Relations Act.

Q. Then where did you go?

A. I returned to my department.

Q. When did you next leave your department?

A. I left my department at about 28 minutes after 3:00. Quitting time was 3:30.

Q. Where did you go then?

(Testimony of Arthur J. Fisher, Jr.)

A. When? At 28 minutes after 3:00?

Q. Yes. [247]

A. At 28 minutes after 3:00 I started down—I went down, rather, not started. I went down the stairs to the foreman's desk and the foreman or his clerks were not there and I thought in order to see Ted Starck, the painters' foreman before he got out of the plant that I had better contact him before the whistle blew.

Q. Now, where was Ted Stark's department?

A. Ted Stark's office was in the wood mill.

Q. Now, where was the wood mill?

A. The woodmill was at the north end of Building No. 3.

Q. In the same building in which you were?

A. No, sir.

Q. Was it the adjacent building?

A. The building right next to it, on the north end of it.

Q. Right next to it?

A. Right north of building No. 3.

Q. Was the woodmill department on the ground floor or on the mezzanine floor?

A. It is all one. I don't remember—I know his office is up in a little balcony they have built there.

Q. And that is where you went to see Ted Stark, at the office up on the little——

A. Balcony.

Q. ——balcony built above the ground floor?

A. Yes. [248]

(Testimony of Arthur J. Fisher, Jr.)

Q. Was he there?

A. Yes, sir; he and his clerk Phoffenberger.

Q. At that time did you have a rover button?

A. No, sir.

Q. Had you spoken to your foreman about leaving your department?

A. At the time I went up the stairs to see Ted Stark the quitting whistle had blew so, therefore, I was on my own time.

Q. On your own time?                      A. Yes.

Q. Did you believe that you had permission to go anywhere around the plant you wanted?

A. Well, I didn't think I was doing anything wrong. I wasn't told I was doing anything wrong by doing something on your own time. If I want to stop and talk to you outside of the gate I was always allowed to do so, or inside the gate.

Q. You had not asked either the foreman or his clerk for a rover button on that occasion?

A. They weren't there.

Q. Now, after talking with Stark where did you go?

A. I went—started to Mr. Newman's office and as I rounded Building No. 3 I heard them speaking——

Q. That is, you came out of the building? [249]

A. I said as I rounded the corner—went around the northwest corner of Building No. 3, to make it specific, so you know what it is, I heard on the speaking system they were calling for Ted Stark.

As I went by the watchman's shanty, which was

(Testimony of Arthur J. Fisher, Jr.)

between Buildings No. 2 and 3 Ted Stark on his bicycle rode up to the watchman's shanty and went in and used the telephone.

Q. Where did you go?

A. I went into Mr. Newman's office.

Q. Where was his office?

A. Mr. Newman's office was in the new administration building.

Q. That is up in the Parts Plant?

A. Up in the Parts Plant.

Q. And the administration building is, to some extent, parallel to buildings 1, 2, 3, and 4, up there?

A. The administration building sets directly west of Building No. 2 of the Parts Plant.

Q. Where was Mr. Larimore's office?

A. Mr. Larimore's office was in the south end of the main floor, in the southwest corner of building—of the administration building.

Q. At the Parts Plant?                      A. Yes, sir. [250]

Q. Now, when you got into Mr. Newman's office he made some remarks about wondering whether you were a Jap lover or had slant eyes, you say?

A. Yes, sir.

Q. And what else did he say? Did he say that you had been out of your department continuously all the while you had been in the employ of the company?

A. He didn't even say anything. He was so—he was so dumbfounded to think that somebody caught up on him that he had no words in his mouth to say.



(Testimony of Arthur J. Fisher, Jr.)

Q. He did not say anything about you having been out of your department? A. No.

Q. Every department you had been in?

A. No, he didn't say nothing—he couldn't say nothing.

Q. He just simply said you were treading on thin ice? A. Yes, he said that.

Q. And that you were going to get out of there?

A. "After the first of the year, Fisher, you are all through." That is what he said.

Q. And who was there? Did he say—strike that out. Did he say that you had better watch your step in the future?

A. No, he didn't say that. I told him, if you want the exact words, I will give you just what he said because he said it—because I am not going to forget it as long as I [251] live. George Newman said to me, no, just skip that a minute.

As I entered George Newman's office George Newman was talking to Ted Stark on the telephone. The reason why I know this is that he said in his conversation, before hanging up the receiver, "Fisher is here now, Ted; I will take care of him."

He hung up the receiver and wheeled around in his chair and looked at me and says, "What the hell are you? A slant eye Jap lover, a Hitlerite or a God damned Communist?"

Q. Did he add anything to that?

A. After saying that he said—I said to him, rather, "George, you know you are in wrong and

(Testimony of Arthur J. Fisher, Jr.)

how are you going to defend yourself?" I said, "You are violating our contract with the company and you are violating the Wagner Labor Relations Act, and you know it or you wouldn't be plant manager." That is what I said to him.

He says, "Fisher, you know you are treading on thin ice. It is a short while to the first of the year. The first of the year you are all done."

I said to George Newman, "If that is all you can say, all you have to say I am sorry that we are in this plant," and I walked out when he said to me, "You get the hell out of here and stay out."

Q. And he was angry, was he not? [252]

A. We both were but I could keep my head and he couldn't.

Q. Did you talk to him as calmly as you are talking now?

A. Brother I can do it any time.

Trial Examiner Hektoen: Well, did you?

The Witness: Yes, sir; I did.

Q. (Mr. Riggs, continuing): Now, on January 1st with relation to the janitors, are you sure that this question had been taken up and that the company had agreed they were going to be supplied with rubber boots and coats and hats?

A. When?

Q. I say, are you sure that it had been taken up previously to January 1st with the company, and that Mr. Kelly, you think, said, or had agreed that the janitors were going to be supplied with rubber coats and boots and hats?

(Testimony of Arthur J. Fisher, Jr.)

A. Early in the first part of 1941 Mr. Kelly made that statement in the Home plant. Brother—no, he ain't no Brother, but Waterbury wrote it down on a piece of paper and notified the maintenance department to buy as many coats as necessary to cover men working in the rain.

Q. Well, how did it happen?

A. I sat there and watched him write it.

Q. How did it happen they were not bought between the early part of January, 1941 and——

A. I don't know.

Q. ——and December, 1942? [253]

A. I don't know—I can't answer that question.

Q. Doesn't that refresh your recollection that the matter had been taken up and decided exactly the other way; that the company was not going to supply the janitors with rubber coats?

A. It seems that they didn't in the Parts Plant, anyhow—they didn't do it.

Q. And when this matter of janitors on January 1, 1942 came up, was it raining—was it raining on January 1, 1942?

A. New Years day?

Q. Yes.           A. It really was raining, yes.

Q. As part of the California climate?

A. No, it is not the climate—we love it.

Q. Then the first time you heard about it—heard any complaint of the janitors was when Mr. Slaughter came to see you, is that right?

A. No, sir. The night—a night janitor told me on my way into work and showed me the man

(Testimony of Arthur J. Fisher, Jr.)

walking around soaking wet and the shoe soles off of his shoes, taken off by the water—worked 8 hours in the rain.

Q. And Mr. Slaughter came to see you about it?

A. I told this janitor to tell the committeeman, Mr. Slaughter, to write up a grievance and see me.

Q. I am trying to shorten this up. Didn't Mr. Slaughter [254] come to see you about it at your place of work? A. Yes.

Q. And was your place of work the same on January 1st as it had been the other time?

A. Yes.

Q. On the second mezzanine floor of Building No. 3, did you say? A. Yes.

Q. About 100 feet from the north end?

A. Yes, sir.

Q. And he came to see you about it?

A. Yes, sir.

Q. Then what happened?

A. When Slaughter came to see me I had already got permission at that time—I got it at 7:00 o'clock that morning from Elmer Gaulbeck.

Q. Now, you say you got permission from Elmer Gaulbeck. Who is he—is he a supervisor?

A. He was my supervisor—he was supervisor over me. I worked for him.

Q. Did you ask him for permission in writing?

A. Not in writing.

Q. To leave your department?

A. Not in writing, no, sir.

(Testimony of Arthur J. Fisher, Jr.)

Q. Did you ask your foreman for permission to leave the [255] department either orally or in writing?

A. I didn't see the foreman. Nobody seen him that morning.

Q. You did not see him, anyway?

A. He wasn't there.

Q. Did you ask the—did you ask his assistant, the assistant foreman?

A. The assistant foreman—I didn't see him either.

Q. So that the only person that you spoke to at all about leaving your department on that occasion was Gaulbeck?

A. Was Elmer Gaulbeck, the highest man in the department that could be found.

Q. Then you went over to the clerk. What was the clerk's name?      A. Don Kimball.

Q. Wasn't there another clerk there?

A. Yes, sir.

Q. Are you sure you spoke to Kimball?

A. Yes.

Q. Wasn't it Pickett you spoke to?

A. No. I spoke to Don Kimball and he referred me to Pickett.

Q. Did you go over to Pickett and tell him you had the foreman's permission to leave?

A. No, sir. I told him that Bill—that Elmer Gaulbeak had given me permission to leave; that I had talked to him [256] at 7:00 o'clock in the morning.



(Testimony of Arthur J. Fisher, Jr.)

Q. And did the clerk hand you a rover's button?

A. Yes, he did.

Q. Upon that statement?

A. Yes, he did.

Q. So that the clerk handing you a button depended on your telling him that Elmer Gaulbeck had granted you, orally, permission to leave the department upon that occasion?

Mr. Ryan: I think this is argumentative.

Trial Examiner Hektoen: In any event, he handed you a button on your telling him that you had Gaulbeck's permission?

The Witness: Yes, sir.

Q. (By Mr. Riggs): And you had nothing in writing?

Mr. Ryan: I object to that as immaterial.

The Witness: Nothing.

Mr. Ryan: I don't think there is any showing that it was necessary.

Trial Examiner Hektoen: Well, you didn't have anything in writing?

The Witness: No, sir; it wasn't necessary.

Q. (By Mr. Riggs): After you had the rover's button where did you go?

A. I started for the personnel department.

Q. And where was that? [257]

A. In the southwest corner of the administration building.

Q. That was across the yard from your building?

(Testimony of Arthur J. Fisher, Jr.)

A. No; right next to Building No. 2. It is kind of cater-corner.

Q. There is a space in between?

A. Yes, sir.

Q. How far away was it?

A. Oh, around 250 or 300 feet, I guess.

Q. And where did you meet George Newman and Mr.—who else was with him, Mr. Powell?

A. In the center of building No. 2.

Q. When you came out of building No. 3, you didn't go straight across the yard to the administration building, did you?

A. No, it was raining too hard.

Q. You went on down through building No. 2?

A. Yes, sir.

Q. How long a building is that?

A. The same length, approximately, as the administration building. By going to the south end of Building No. 2 you can walk right across in a hurry into Larimore's office.

Q. And it was in the middle of building No. 2 that you met Newman and Powell and Henry Golen?

A. Yes, sir.

Q. The three of them? [258]

A. Yes, sir. In fact, they were waiting on me.

Q. They were waiting on you?      A. Yes, sir.

Q. How do you mean that?

A. I think somebody had let them know I was coming.

Q. Somebody in your department?

A. That is my supposition of the thing.

(Testimony of Arthur J. Fisher, Jr.)

Q. Well, no matter what your supposition is, you met the three of them as you were walking down the aisle of that building? A. Yes, sir.

Q. And you said that Mr. Newman took your rover's button off and asked you "Where the hell did you get that"?

A. He snatched it off. He didn't take it off. He snatched it off, pulled it right off of my shirt.

Q. Did he ask you at that time whether you obtained permission of your foreman——

A. No, sir; he did not.

Q. Not at that time? That was a later time?

A. "Where the hell did you get that rover's button."

Q. That was all he said?

A. That was all he said.

Q. And to go back to your job?

A. Asked me where I was going.

Q. What did you say? [259]

A. I told him that I was headed to see Mr. Gregory, the lead man of the janitors and from there into the personnel office to see Mr. Larimore in regard to the janitors working in the rain.

Q. And that was all that he said: "Where the hell did you get that button" and snatched it off of you? A. Yes, sir.

Q. And "Go back to your job"?

A. And the question he asked me, "Where I was going?"

Q. Then where was it you were fired? When

(Testimony of Arthur J. Fisher, Jr.)

you were called into the office—were you fired in his office?

A. Approximately 9:30 in my own department at the foreman's desk.

Q. And at that time he asked you whether you had had the permission of the foreman to leave your department and you said no?

A. That is right. That was the only question he asked me. Nothing else.

Q. Now, didn't you have a rover's button all the while? A. No, sir.

Q. Didn't part of the time you were employed in the plant you have a rover's button? Remember, you are under oath. A. What do you mean?

Q. Hadn't you gotten a rover's button at one time and kept it? [260]

A. No, I never kept one. I had—I got a button from Steve Powell—Steve Powell, when we first went to the personnel I was the only man that had a rover's button when we got it fixed up there.

Q. Did you return the rover's button every time you finished the mission?

A. Yes, sir. I used to give it to them every night. I may keep it all day long but I give it in at night, but I had given it back to Jimmy Ennis or another man in the office.

Q. And there was never—there never was any occasion when you kept the rover's button all the while so you could put it on whenever you left the department? A. No, no.

(Testimony of Arthur J. Fisher, Jr.)

Q. Never anything like that?

A. No reason for it. I could get one any time I wanted it. Why should I want one?

Q. I am asking you was there any—was there a time when you had a rover's button in your possession all the time?      A. And I said no.

Q. And a rover's button that your foreman did not know about?      A. No.

Q. You are sure about that?

A. We had no foreman when I had the one from Mr. Powell. [261] You ought to remember that because we had no foreman up there for the first month or two up there.

Q. Didn't Don Kimball ask you at one time how you came to have a rover's button that wasn't issued by his department?      A. No, sir.

Q. You are sure of that?

A. Oh yes, yes. I had a rover's button. I was taking it back in. I wanted to let him know where I was going. Yes, sir, positively, I had a button from Steve Powell. That was before Mineah was our foreman—before we had a foreman.

Q. Didn't he ask you where you got the button and didn't you tell him it was none of his business?

A. No, sir; I did not. I am still a gentleman.

Q. Didn't Kimball tell you that he had instructed Picket never to issue a rover's badge without a written permission?

A. No, sir; didn't tell me that.

Q. Didn't tell you that?

A. No; he had no reason to tell me that.



(Testimony of Arthur J. Fisher, Jr.)

Q. Did Mr. Mineah have any conversation with you about leaving your department to go to Mr. Larimore's office?

A. Spoke to me, yes, when I was leaving Larimore's office one time.

Q. Well, I mean didn't he—I didn't ask you that, whether he spoke to you when you were leaving Larimore's [262] office. Didn't he have some conversation about your going to Larimore's office?

A. He asked me why I had to go in there when I would ask him for a rover's button.

Q. Wern't there occasions when you left the department to go to Larimore's office and never showed up at Larimore's office? A. No, sir.

Q. Didn't Mr. Mineah tell you on several occasions when you said you were going to leave your department to go to Mr. Larimore's office, and he found out afterwards that you did not show up there? A. No, sir.

Q. You are sure of that, too, are you?

A. Yes, sir; I am positive.

Q. Didn't you ask for permission sometimes to leave the department to attend some meetings in Mr. Larimore's office?

A. Grievance meetings, yes, sir. [263-4]

Q. And did you always show up at those meetings?

A. Yes, sir.

Q. There was never any occasion when you asked for permission to go to Mr. Larimore's office that you didn't actually go there, and not go somewhere else instead?

(Testimony of Arthur J. Fisher, Jr.)

A. No, sir; no necessity; any time I wanted to go to Mr. Larimore's office I stated I wanted to go.

Q. You don't get the purport of my question. Didn't you give as an excuse that you wanted to go to Mr. Larimore's office, to get out of the department, to get permission to go in and go out?

A. No, sir, I never did that. I had no reason to.

Q. You are sure you had a conversation with Mr. Gaulbeck on January 1, however, about leaving the department on that day?

A. 7:00 o'clock; yes, sir. In fact, well——

Q. Were you there at the meeting when Mr. Gaulbeck and Mr. Mineah went to Mr. Newman's office on January 1?

A. What was the question?

Q. Were you present at the occasion when Mr. Mineah, your foreman and Mr. Gaulbeck, your supervisor, were at Mr. Newman's office on January 1?

A. If they were in Mr. Newman's office I know nothing about it.

Q. You were not there anyway? [265]

A. No, I don't know even of them going there. It must have been after I was fired.

Q. I think you will find it was before. Did Mr. Larimore tell you at many occasions when you came to see him that you were wasting time on a lot of trivial matters?

A. He made those statements, yes.

Q. And sometimes didn't you bring people to see him in the plant about grievances?

A. Yes, sir.

(Testimony of Arthur J. Fisher, Jr.)

Q. And on some occasions didn't these people say: Well, we are sorry to waste time on these trivial matters, but Fisher got us to come down here?

A. No, they didn't make those statements. I didn't make grievances out; the committee makes the grievances out and bring them to me. My duty is to present them.

Trial Examiner Hektoen: We will get along faster if you will just say: No. Is that right?

The Witness: Right.

Q. (By Mr. Riggs) Can you give me an example of an occasion when Mr. Larimore told you he thought you were wasting your time and the company's time with trivial matters?

A. No, sir.

Q. Didn't he also tell you that taking up matters was just to make an excuse to get out of your department to go down [266] there? A. No, sir.

Q. He never said that to you? A. No, sir.

Q. Never said that in substance or in that language? A. No, sir.

Q. You can't tell us any particular occasion when he characterized your visit as a trivial visit to waste your time? A. No, sir.

Q. Well, now, you are quite sure that all these men under whom you worked: Mr. Raymond, Mr. Liegal, Mr. Walter Borg, Mr. Waskey, Mr. Robert B. Mohr, Mr. William Larsen, and Mr. Mineah, none of them at any time remonstrated to you or reprimanded you for leaving your department without permission? A. Mr. Mineah did.

(Testimony of Arthur J. Fisher, Jr.)

Q. When did he do that?

A. One day when I was leaving Larimore's office.

Q. When was that?

A. Some time in November or December, 1941.

Q. Tell us about that. Did you have a Rover's badge at that time?

A. Yes, sir.

Q. Where had you obtained it on that occasion?

[267]

A. From the clerk.

Q. What clerk?

A. Mr. Larimore's clerk.

Q. Name?

A. Petit is the name; not Don Kimball.

Q. Pickett?

A. Pickett, whatever it is.

Q. Tell me what happened when Mr. Mineah remonstrated with you on that occasion.

A. He told me I would have to stay on my job. In other words, if I didn't stay on my job, he would fire me.

Q. Was that in December of 1941??

A. Yes.

Q. Can you fix the date any better than that?

A. I can't recall exact dates.

Q. Was that any time between this December 13 occasion and the time you were fired on January 1, or was it before December 13?

A. I don't remember the exact date. I know when it happened, but I don't remember the date.

Q. It was some time in December?

A. It was in the month of December.

Q. Did you tell him you had a Rover's button, or did he see it?

(Testimony of Arthur J. Fisher, Jr.)

A. He seen it. You had to wear it out. [268]

Q. Did he ask you where you got it?

A. No, sir; he knew where I got it.

Q. He didn't ask you whom you had obtained it from?

A. No, sir, he didn't.

Q. Didn't he tell you nobody but him could give you permission to leave his department?

A. He told me from now on.

Q. He told you from now on nobody but him could give you permission?

A. From now on I could not leave my bench.

Q. Without his permission?

A. I could not leave my department, period; no more.

Q. But you did, didn't you?

A. Yes, sir.

Q. And you left without his permission on the first of January?

A. No, I left with his permission before the first of January. He gave me permission before the first of January, after I had spoken to Mr. Powell at the meeting of December 6th and told him what had taken place, or in November; I don't know the exact meeting, and it was told to Mr. Powell and Mr. Newman that Mineah said I could not go to see Mr. Newman or Mr. Powell or Mr. Larimore. George Newman talked to Mineah and cooled him off, I guess; I don't know; but Mineah let me go through the same routine again. [269]

Q. Well, then, this must have been before December 16th.

A. Previous to that meeting.



(Testimony of Arthur J. Fisher, Jr.)

Q. You are sure of that now?

A. I told you it was before.

Q. A minute ago you told me you couldn't fix the date.

A. I said the month of December.

Q. Don't argue with me. I asked you whether it was between December 13 or January 1 or before that, and you told me you couldn't say. Now, your recollection is apparently refreshed that it was before December 13. Is that right?

A. It was in the month of December.

Q. I am trying to fix the date, Mr. Fisher, when this occasion took place.

A. Previous to December 16.

Q. Previous to that?

A. Yes, it must have been.

Mr. Riggs: Are we going to adjourn soon?

Trial Examiner Hektoen: Do you have much more of this witness?

Mr. Riggs: Yes, sir.

Trial Examiner Hektoen: About how much more?

Mr. Riggs: About half an hour.

Trial Examiner Hektoen: We will adjourn until 1:30, and inasmuch as you are on cross examination, Mr. Fisher, please do not talk to anybody about these matters, will you? [270]

The Witness: Yes, sir.

(Whereupon, at 12:30 o'clock, p.m., a recess was taken until 1:30 o'clock p.m. of the same day.) [271]

(Testimony of Arthur J. Fisher, Jr.)

After Recess

(The hearing was reconvened at 1:30 o'clock p.m.)

Trial Examiner Hektoen: The hearing will be in order.

Mr. Riggs: I have no more questions of Mr. Fisher.

Trial Examiner Hektoen: Mr. Harrington.

Redirect Examination

Q. (By Mr. Harrington) You testified, Mr. Fisher, I believe, that you had no union position when you were discharged in July of 1940—you held no position with the union?

A. No, sir, I did not.

Q. Had you engaged in any union activities prior to that time? A. In Consolidated?

Q. Yes. A. Yes.

Q. What was those activities?

A. I helped organize the union in the plant when we went to work there. There was only around fifty members in there at that time and I worked in my department and Mr. Felton, our business representative today, worked on the machine shop. In other words, there was one of us in each department who tried to take a little foothold and get the boys into the union in each department.

Q. Now, there was testimony on your cross examination that [272] Walter Borg was union shop committeeman and you stated at that time that you

(Testimony of Arthur J. Fisher, Jr.)

wanted to say something. What was it you wanted to say?

A. Well, Walter Borg was shop committeeman and if we gave Walter Borg a grievance and it didn't just strike him right, why, he used to tear it up and throw it away. In other words he didn't present them to the company. That is the kind of a committeeman he was.

Q. You were union committeeman all through 1941, were you? A. Yes, sir.

Q. That memo of July 23rd, 1941, Company's Exhibit No. 2, I believe, what did that memo refer to?

(Handing exhibit to the witness)

Mr. Riggs: I object to that. I think it speaks for itself.

Trial Examiner Hektoen: Well, what is the purpose of your question, Mr. Harrington?

Mr. Harrington: Well, I believe Mr. Riggs examined on it, on whether that memorandum affected him or whether it had any bearing on him.

Trial Examiner Hektoen: Well, I suppose to that extent Mr. Riggs' objection is well taken. What it refers to would seem to be self evident. If you want to ask some specific question about it you may.

Q. (By Mr. Harrington) Did that have any bearing on you? [273] A. No, sir, it did not.

Q. Why?

A. At that time we had no machinery. The only way I can explain this is to tell the story so you

(Testimony of Arthur J. Fisher, Jr.)

can get it, you know, so we will understand it. At that time we had no machinery in the parts plant and they had no way for the jig builders or tool-makers or anything like that to make parts up there. We just moved up there and there was certain individuals, such as toolmakers and jig builders that was making a habit of leaving the plant and going down to the Home plant and loitering around, so in order to stop that management had to do something, so they got at it and they said that any man that went from the parts plant to the Home plant or vice versa would have to have permission from his foreman to do so.

That is why that was put on the board. In fact the clock that we punched on didn't even have that on the clock. I seen that on the jig builders clock, that statement which was at the foot of the stairs on the first floor where I worked up on the second mezzanine above. That was where I seen it on the clock. It wasn't on our clock at all.

Q. Did Respondent's Exhibit 3, that is the memo of August 26, 1941, refer to union committeemen?

(Handing exhibit to the witness)

A. This memorandum when it was put on the clock——

Mr. Riggs: May I make an objection there that again [274] this exhibit speaks for itself.

Mr. Harrington: Well, you examined him on that point, I believe, Mr. Riggs.

Mr. Riggs: I think that I examined him by

(Testimony of Arthur J. Fisher, Jr.)

asking him if he had seen that exhibit at the time that it was posted and he said that he had. Then he went on to say that he didn't think it applied to him but I didn't ask him other than that about it.

Trial Examiner Hektoen: May I see the exhibit, please?

(Exhibit handed to the Trial Examiner.)

Trial Examiner Hektoen: Do you want to ask another question?

Q. (By Mr. Harrington) Do you know the circumstances of the posting of that memo?

A. Yes, sir. This was put on the clock for the simple reason that men were running from one building to the other visiting——

Mr. Riggs: May I object to this again, as to the circumstances of the memo.

Trial Examiner Hektoen: He may answer that if he knows.

The Witness: You see they were running from one building to another. We was in building 2 and building 3 and there was nothing but a fence on the outside and the men were visiting back and forth and in order to stop that and to find out who worked in building No. 2 and 3, and so the timekeeper could [275] check up where we were working, this bulletin was put on the board—it was mostly from the mechanical maintenance, electrical maintenance, stock and material chasers, receiving and shipping clerks and janitors—that is what it was put up for because I went in and asked Mr. Newman per-



(Testimony of Arthur J. Fisher, Jr.)

sonally myself if this—if we must abide by this bulletin.

In other words, we could not leave our building and he said to me:

“As long as you proceed to get your button and have permission to leave that is what you are supposed to do.”

And we continued to do it and they are still doing it.

Q. (By Mr. Harrington) You are referring to Respondent's Exhibit 3? A. Yes, sir.

Mr. Riggs: May I have that, please?

(Exhibit handed to Mr. Riggs.)

The Witness: That is on the one—on the Rover button.

Q. (By Mr. Harrington) Who spoke in support of Major Fleet's request to work more than eight hours a day at the union meetings?

A. Walter Borg.

Q. And what is he doing now?

A. I don't know. He is holding some kind of big job at Consolidated now. I don't know what he is. He has been boosted a way up continuously since the day that he proposed [276] that motion.

Q. Do you know how soon after that Borg was promoted?

A. Borg was made leadman the week that that happened.

Q. Before or after?

A. After, and he was made supervisor. I don't

(Testimony of Arthur J. Fisher, Jr.)

know if he is a foreman now or what he is, but he has been boosted up right along since that happened.

Q. Were you ever told that you could not do things, carry on your union activities on your own time?

A. No, sir. The only time I ever had anything said about that was whenever I first went back to work after being re-hired, that you wasn't supposed to do any union activities during working hours.

I read that in, I think it is in our agreement, Section 5—I forget the number.

Q. You testified that at this meeting on December 16th this matter of Mineah saying you could not leave your department was brought up. How was it brought up at that meeting and what happened?

A. December 16th? That was in November's meeting. That was in November's meeting when that happened. That was in November's meeting. December's meeting was where all the argument came up about the raincoats and boots, but November's meeting was where we talked about it.

I said December. I made a mistake there myself. It was [277] November we talked about the grievance that I wrote up on Mineah.

Q. That is the one you testified to?

A. That is right. That was in November's meet-

(Testimony of Arthur J. Fisher, Jr.)

ing because Mr. Newman was present at that meeting and in December's meeting Mr. Newman was in Texas at the Texas plant so he wasn't there, but I recall it distinctly now he was at the meeting where that was brought up.

Mr. Riggs: May I have that grievance, please?

(Paper handed to Mr. Riggs.)

Mr. Harrington: I have no further questions.

#### Recross Examination

Q. (By Mr. Riggs) You mean to say that this Board's Exhibit No. 16, a grievance without a date upon it, which I asked you on cross examination, was made out sometime in November?

A. Yes, sir.

Q. You want to correct December?

A. Yes, because I know Mr. Newman was the one that answered it.

Q. You say Mr. Newman was the one that answered it? A. Yes, sir, and Mr. Powell.

Q. How did they answer?

A. Mr. Newman and Mr. Powell both said that they would talk to Mr. Mineah and kind of put him in his place a little [278] bit.

Q. At your request?

A. No, not at my request.

Q. Well, I mean in response to this?

A. Yes, in response to the grievance.

Q. In response to the grievance?

A. Yes.

Q. That Mr. Newman and Mr. Powell said that

(Testimony of Arthur J. Fisher, Jr.)

although Mr. Mineah told you you couldn't get out of your department without his consent, that they were going to tell him that you could go whenever you wanted to. Was that the idea of it?

A. No, they were going to tell him in regards to the language he used and the way that he approached me and told it to me.

Q. But did they still say that you should get your foreman's consent when you left the department?

A. No, I had made that arrangement with Mr. Powell and I continued to do the same thing under the arrangement that I made.

Q. What you want us to understand is that you had a blanket authority, practically, from Mr. Powell that was given you in January 1941 to get out of your department any time that you wanted to?

A. That is right, by notifying he or his clerk if he wasn't there—to notify his clerk.

Q. And was that never rescinded or restricted by anybody? [279]

A. No, sir, couldn't do it—how could they unless they put it in writing.

Q. I am asking you was it ever restricted by anybody? A. No, sir.

Q. You were never prohibited from leaving your department without the foreman's permission?

A. I have always left my department by going to the clerk and getting a button or to the foreman if he was there.

(Testimony of Arthur J. Fisher, Jr.)

Q. Now, who got Rover buttons in the plant beside committeemen? A. Who?

Q. Yes.

A. Anybody that was sent from one building to another or from one plant to the other.

Q. But every committeeman that left his department had to get a Rover button, didn't he?

A. Yes, sir. All foremen have Rover buttons.

Q. So that this bulletin of August 26th with reference to the issuance of Rover buttons applied to committeemen as well as anyone else who wanted to leave their department?

A. Yes, sir, as far as the buttons were concerned, yes, sir.

Mr. Riggs: That is all.

#### Redirect Examination

Q. (By Mr. Harrington) What was Powell's position with the company? [280]

A. When I first went to work for him he was foreman. He is now assistant plant manager.

Q. And how long has he been assistant plant manager?

A. Since we moved to the parts plant he was made assistant plant manager in, I think, in July of last year, 1941. I am not positive of the exact date but I think it was in July or August.

Q. After he gave you that permission had anybody ever told you anything else since—any official of the company up to this time in December?

A. No, sir, only the time that Mineah and I had



(Testimony of Arthur J. Fisher, Jr.)

words about it and he told me that I couldn't leave my job. That was the only time.

Mr. Harrington: I have no further questions.

### Recross Examination

Q. (By Mr. Riggs): What was his position at the time that you claimed he gave you this blanket authority in January 1941?

A. Mr. Powell was the foreman of the wing department of both plants.

Q. Do you remember where this conversation took place?

A. Yes, sir; in building No. 4, in the main aisle—in the main crosswalk running east and west, right in the center of the building. His desk was right at the end of the aisle in the main aisle running north and south. [281]

Q. Was there any other committeeman in that department at that time?

A. Yes, sir; Tommy Acock.

Q. Did he give Mr. Acock the same permission?

A. I don't know. I didn't make arrangements for him. I made my own arrangements with Mr. Powell.

Q. Do you know of any other committeemen that had the same authority?

A. Well, I could say all the committeemen had that authority; all of them.

Q. They could all leave their department at any time?

A. By notifying the foreman or the clerk.

(Testimony of Arthur J. Fisher, Jr.)

Q. By notifying and obtaining the permission of the foreman?

A. The foreman or clerk if the foreman wasn't present. You had to notify the clerk where you was going to and that is the way we done it all the time. They still continue to do the same.

Mr. Riggs: I object to that. You haven't been there since January 1st, 1942.

Trial Examiner Hektoen: Objection sustained.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Anything more?

Mr. Harrington: No.

Trial Examiner Hektoen: Mr. Fisher, you testified that Powell at one time told you that you would get ahead a lot [282] faster if you would quit this union stuff. When was that done?

The Witness: That was in January of 1941.

Trial Examiner Hektoen: But when did you become parts plant chairman?

The Witness: Parts plant chairman?

Trial Examiner Hektoen: Yes.

The Witness: We moved to the parts plant—I am not positive now whether it was July or the first week of August, but we moved up there, I will say, in July.

Trial Examiner Hektoen: 1941?

The Witness: 1941. And after we moved to the parts plant there was several committeemen up there and they would run in—I will have to tell you this story in order to tell this to you.

(Testimony of Arthur J. Fisher, Jr.)

They would run into Newman's office and to Larimore's office, each one of them, individually, with a grievance or with an argument about some little thing that had happened and they would get it written up in grievance form and take it in and Newman wanted to know who he would talk to, so at the time Brother Felton, our business representative today—who is business representative today, at that time he and Chudleigh and he designated me as chairman of the committee until one was elected and I held that job as chairman of the plant until I was discharged. [283]

Trial Examiner Hektoen: Now, at the same time then that Powell told you that you would get ahead faster if you would quit this union stuff, he also entered into this arrangement whereby you could go around with his permission, is that correct?

The Witness: Yes, sir.

Trial Examiner Hektoen: About the same time?

The Witness: Same time.

Trial Examiner Hektoen: Now, on the 13th of December when this McMahan incident took place, you ran down there and told McMahan that the whole thing should be taken up through the union rather than directly; is that right?

The Witness: Yes, sir.

Trial Examiner Hektoen: And then thereafter you called up Newman?

The Witness: Yes, sir; called Mr. Newman on the telephone.

(Testimony of Arthur J. Fisher, Jr.)

Trial Examiner Hektoen: Was he exercised about anything at that time?

The Witness: He told me when I called him on the phone—his exact words was that he didn't know anything about a petition being in that plant. He said he knew that one was circulated in the Home plant and that all the men had signed it. [284]

Q. He didn't know anything about it?

A. He says he didn't know anything about it.

Q. Did you make an appointment with him, or what?

A. I told him whenever I was talking to him on the phone, I would stop in to see him on my way home.

Q. That same evening?

A. Yes.

Q. Thereafter, when you saw Stark and Newman, you got rather mad? A. Yes, sir.

Trial Examiner Hektoen: Those are all the questions I have. Any more?

Mr. Riggs: No.

Mr. Harrington: No.

Trial Examiner Hektoen: That is all.

(Witness excused.)

Mr. Harrington: Mr. McMahan.

T. L. McMAHAN

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Harrington): Give your name to the reporter.

A. T. L. McMahan.

Q. What is your address? [285]

A. 1852 Third Avenue.

Q. Are you an employee of the company?

A. I am.

Q. For how long have you been employed by the company?      A. 14 months.

Q. Are you a member of the union?

A. I am.

Q. How long have you been a member of the union?

A. Approximately 14 months.

Q. What type of work do you do?

A. Sign writer.

Q. Were you working at the plant in December of 1941?      A. Yes, sir.

Q. Do you know Arthur Fisher?

A. I do.

Q. Did you have a conversation with him on that date?

A. What was the date?



(Testimony of T. L. McMahan.)

Q. Did you have a conversation with him in December? A. Yes, sir.

Q. What date?

A. It was on Saturday afternoon, December 13.

Q. What was that conversation about?

Mr. Riggs: I object to that.

Trial Examiner Hektoen: Why?

Mr. Riggs: It is not binding or conclusive upon the [286] company in the absence of any company representative.

Trial Examiner Hektoen: I think it is close enough. The objection is overruled.

Q. (By Mr. Harrington): What was the conversation?

A. It was, really, you might call it a petition, a circular, or something, that was sent up on the roof to me where I was working, in regard to working on Sundays without pay.

Q. I show you Board's Exhibit 15. Have you ever seen that before?

A. No, sir, I did not see this before.

Q. Have you——

A. It was not the one that was handed to me.

Q. Is the material in there the same?

A. No, sir.

Q. What was the one that was handed to you?

A. The one that was handed to me stated that we would work and no compensation would be acceptable by us for our work on Sundays.

Q. You state this was not the one?

(Testimony of T. L. McMahan.)

A. No, sir, that is not the one, because it stated we would receive no compensation for our work on Sunday.

Q. Well, read this again.

A. No, we were not to ring up cards, or anything.

Q. Very well. You say this petition was sent to you on the roof of the building, this petition you refer to? [287]

A. Yes.

Q. Who brought it to you?

A. One of the painters working over the edge of the building on a ladder. It was sent up to him by the clerk of the wood mill, and he brought it over the top of the building to me.

Q. What was this painter's name?

A. I don't know what it was.

Q. When he brought it to you, did he say anything to you?

A. He told me it was a paper for me to sign to work Sundays. So I read it and gave it back to him, and told him I wouldn't sign it.

Q. Did you see the petition again that day?

A. I did.

Q. When?

A. Oh, approximately an hour or an hour and a quarter after that.

Q. Where did you see it at that time?

A. Back on the roof of No. 3 building it was handed to me again by one of the mechanics.

Q. Do you recall his name?

A. He was sent up, he said it had been given to

(Testimony of T. L. McMahan.)

the lead man, Johnny Young, by the clerk and Johnny Young sent it up. I don't know which one handed it to him.

Q. What happened at that time? [288]

A. On the second time I came down off the roof and came down on the second mezzanine, No. 3 building, to see Fisher in regard to it.

Q. Did you see him?

A. No, sir. When I went to his department they said he had gone to the toilet, so I went down the steps there and contacted Mr. Hardman at the foot of the steps.

Q. Did you contact Mr. Hardman, you say?

A. I did.

Q. Then what happened?

A. Mr. Pyatt came up at that time and they both advised me not to sign it.

Q. What did you do then?

A. Well, we were there talking by the steps, and Fisher came down the steps from his department, and I showed him the petition, and he advised me not to sign it.

Q. What did you do then?

A. I went on outside the north end of No. 3 building where the clerk was waiting for me, and he advised me to sign the petition, and I told him I would not.

Q. Who was the clerk?

A. Merle Pallenberger.

Q. When you say he was a clerk, what kind of a clerk was he?

(Testimony of T. L. McMahan.)

A. He was a foreman's clerk on the woodmen's department. [289]

Q. Who was foreman in that department?

A. Ted Stark.

Q. What time of day was that?

A. 3:15 or 3:30 in the afternoon.

Mr. Harrington: I have no further questions.

Cross Examination

Q. (By Mr. Riggs): When you talked with Mr. Harkins and Mr. Pyatt, did you have this petition with you? A. I did.

Q. Was it a petition or bulletin such as has been shown you, Exhibit 15?

A. No, it was no bulletin at all. It was type-written out and there was a place for signatures. There was only two painters that did not work on Sunday, and the rest of the painters worked on Sunday.

Q. What became of it after you talked to Harkins and Pyatt?

A. I went back and give it to Pallenberger.

Q. Are you sure it asked you to work without pay, or in accordance with this Bulletin 15 which said you could punch the time clock for time and a half?

A. I took an oath here to tell the truth.

Q. It asked you to work without pay.

A. It did.

Mr. Riggs: That is all. [290]

Trial Examiner Hektoen: No questions.

Mr. Harrington: No questions.

(Witness excused.)

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Mr. Harrington: Mr. Harkins.

DENNIS B. HARKINS

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Harrington): What is your name?

A. Dennis B. Harkins.

A. And your address?

A. 5059 Holly Boulevard.

Q. Are you employed by the company?

A. Yes, sir.

Q. Where do you work?

A. Department 65.

Q. And what department is that?

A. Tool room.

Q. Are you a member of the union?

A. Yes, sir.

Q. How long have you been a member?

A. Oh, I would say about 16 or 17 months.

Q. Have you held any position in the union?

A. Committeeman in Department 65. [291]

Q. And when was that?

A. Up until about a month ago for about, oh, a year or better.



(Testimony of Dennis B. Harkins.)

Q. Were you working in Department 65 in December, 1941?

A. Yes, sir.

Q. Do you know N. R. Pyeatt?

A. Yes, sir.

Q. Is he an employee of the company?

A. Yes, sir.

Q. Where does Pyeatt work?

A. Pyeatt works about 12 feet back of me, two benches, to be exact. We have benches there and he works the second bench in back of me, when he is there.

Q. Was a petition circulated in your department on December 13?

A. Yes, there was a petition circulated on December 13.

Q. What did that petition consist of?

A. That was in relation to working Sundays for time and a half, and that petition was first presented to Mr. Pyeatt.

Q. Can you give me more details of what that petition consisted of?

A. Well, the only thing I can recollect now; I didn't read the petition very carefully, was at that time our foreman was circulating the petition for men to work on Sundays for time and a half. [292]

Q. I show you Board's Exhibit 15. Have you seen that before?

A. Yes, sir. That is a copy that was on the clock.

Q. Is that the one—

(Testimony of Dennis B. Harkins.)

A. —and the petition that was circularized was in conjunction with this memorandum.

Q. But it wasn't this one?

A. It wasn't that, exactly, because there was—wait until I see if I can remember; our petition had nothing to do with this here fuselage paint shop; it was only the jigs and tools.

Q. Mr. Harkins, how was that petition circulated in your department?

A. Well, the petition was given to Mr. Pyeatt and after he refused to sign it, he told me what it was and my job as committeeman was: I went around and told the rest of the boys if they signed that petition, which was against our contract and against the Labor Relations Act, they would be liable to a fine from ten to twenty-five dollars, by the union.

Q. Who was your foreman?

A. Mr. Charles Taylor.

Q. Did you have any conversation with Mr. Fisher on that date?      A. Yes, sir. [293]

Q. What was that?

A. Well, when I went over to see some of the boys about the petition, and I came back, Mr. McMahan come down; Mr. Pyeatt and I were talking to him when Fisher come along and started to get quite a crowd around the foot of the steps, so I went back to my bench. Mr. Fisher come over and told me exactly what the petition was about and I also told McMahan not to sign the petition to work without pay or with time and a half.

(Testimony of Dennis B. Harkins.)

Q. What happened then?

A. Well, then McMahan left, and I returned to my bench.

Q. In your position as committeeman of the union, what were your duties?

A. My position as committeeman of the union was to take care of grievances and all kicks of any kind the men thought they had coming, or did have coming.

Q. What men would that be?

A. That would be the men in Department 65, the tool room.

Q. What complaints and grievances did you take up in December of 1941?

A. For instance, we had the doors to the building open; there were big doors being kept open and it was quite drafty, and we had to put the heat on everybody to get them closed; and the parking situation, we had that.

Q. What was the parking situation? [294]

A. That was the latter part of December, I would say about the 29th of December, several of the men came to me that morning and complained they had been late. They had to climb over cars that were parked, in the street they were parked in the lanes, and they came and made a complaint to me about it.

Q. Who were those employees?

A. I couldn't recall their names now. We have a couple of hundred there.

(Testimony of Dennis B. Harkins.)

Q. What did you do with respect to that complaint?

A. That complaint, I took, as we always did, I went and got a Rover's button,—

Q. Who did you get the button from?

A. From our clerk.

Q. What is his name?

A. Pat Paxton.

Q. Who was foreman at that time?

A. Charlie Taylor.

Q. Did you see Taylor before leaving your department?

A. No, because I had permission from Taylor to get a button from Paxton when I needed it, because Taylor told me prior to that there was no use of my hunting him all the time; I could be trusted and I never abused any privilege he had given me.

Q. When did he give you that permission?

A. About October.

Q. Did you leave the department without seeing him after you [295] got that permission?

A. Yes, I left the department dozens of times.

Q. What did you do on this occasion after you got the Rover's button?

A. Well, I went to get Mr. Fisher to go out and get permission from the captain of the police, Joe Shadduck, to go up on the overpass on our way out to—Fisher was—I got Fisher, and we went to his office, and he got a Rover's button. On our way

(Testimony of Dennis B. Harkins.)

there we ran into Jim Powell, and the three of us proceeded and got permission from Shadduck to go up on the overpass and look the car situation over.

Q. Who is Powell?

A. Powell was committeeman I think in Department 9.

Q. Who was Shadduck?

A. Shadduck was captain of the police of the parts plant, at that time.

Q. After receiving permission, what did you do then?

A. We went up and looked the car situation over and came back to the personnel office to make a request for Mr. Larimore.

Q. You say in the personnel office? Who did you see?

A. Bill Larimore, and we made our wishes known, and Mr. Larimore said he would see what he could do about it.

Q. Then what did you do?

A. Powell had something to take up with Larimore, which I [296] stepped outside of the office while he conducted the business, and when we were through, we went back to our departments.

Q. Did you turn your Rover's button in?

A. Yes, I turned my Rover's button in.

Q. Who did you turn in to?

A. Back to the clerk.

Mr. Harrington: I have no further questions.



(Testimony of Dennis B. Harkins.)

Cross Examination

Q. (By Mr. Riggs): Did anyone sign the petition about working on Sundays at all?

A. Yes, sir; there was one man that I know of, and he signed that on my instructions.

Q. This was circulated on December 13; that was a Saturday?

A. That was a Saturday.

Q. That applied to the Sunday after the attack on Pearl Harbor, the 14th?

A. It was on the 14th; it was the Sunday after.

Q. When was that discussion that you had about the parking situation?

A. Well, that was in the latter part of December. I would say that was about the 29th or it may have been the 30th, but I think it was the 29th.

Q. The parking situation has been pretty acute in this plant at all times, hasn't it?

A. Yes. Do you want me to explain that? [297]

Q. I just want you to answer the question.

A. It has been acute until a few months ago.

Q. Has the management now corrected the situation?

A. The management made the contractor come back and tear it up and do a good job of it.

Q. You say Mr. Taylor said you could have a Rover's button at any time by applying to the clerk, that you had never abused it, that you knew of?

A. Yes, sir.

(Testimony of Dennis B. Harkins.)

Q. Is that the fact?

A. It is the fact.

Mr. Riggs: I have nothing further.

### Redirect Examination

Q. (By Mr. Harrington): How often did you leave your department on union business without asking the foreman, after he gave you that permission?

A. Oh, hell. I couldn't even estimate that. It would be sometimes twice a day, and then other times, well, in fact, when we were having some trouble with Mr. Fisher and myself, we were out of the department a good bit of time. I wouldn't even try to estimate it.

Q. Were you generally out with Fisher?

A. When the case related to my department.

Trial Examiner Hektoen: Thank you.

Mr. Harrington: I have no further questions.

(Witness excused.) [298]

Trial Examiner Hektoen: We had something about him yesterday. On what basis was that?

Mr. Harrington: On the basis—we are not alleging discharge as an unfair labor practice, but we are alleging that the company refused to meet with the union afterwards and discuss his case.

Trial Examiner Hektoen: Refused to meet with them?

Mr. Harrington: Yes, sir; refused to discuss his case with the union afterwards.

Trial Examiner Hektoen: And is that a part of your allegations?

Mr. Harrington: 8(5). [310]

Trial Examiner Hektoen: We will be in order, please.

Mr. Harrington: Will you mark this for identification, please?

(The document referred to was marked as Board's Exhibit No. 17 for identification.)

Mr. Harrington: May we stipulate, Mr. Riggs, on the record that this exhibit which I have had marked Board's Exhibit No. 17 for identification is the contract which was entered into preceding Board's Exhibit 3, which is the present contract?

Mr. Riggs: I so stipulate.

Mr. Harrington: Thank you.

Trial Examiner Hektoen: It is admitted as Board's Exhibit 17.

(The document heretofore marked for identification as Board's Exhibit No. 17 was received in evidence.)

BOARD'S EXHIBIT No. 17

AGREEMENT

Between  
Consolidated Aircraft Corporation  
and the  
International Association of Machinists,  
Aircraft Lodge No. 1125  
American Federation of Labor  
San Diego, California

Covering all hourly-paid employees of Consolidated Aircraft Corporation with respect to rates of pay, wages, hours, and other conditions of employment.

12 June 1941

Foreword

This agreement has been negotiated in accordance with law and in compliance with two certifications of the National Labor Relations Board following elections at which the hourly-paid employees of Consolidated Aircraft Corporation selected the International Association of Machinists, Aircraft Lodge No. 1125, which may, for the convenience of the Lodge and by mutual consent of the parties hereto, be divided into sub-lodges thereof, to represent them as the collective bargaining agency with the company. (3)

Union Agreement

Agreement made this 12th day of June, 1941, between Consolidated Aircraft Corporation, herein called the "Company" and International Associa-

Board's Exhibit No. 17—(Continued)  
tion of Machinists, Aircraft Lodge No. 1125, herein  
called the "Union";

Witnesseth:

Whereas, there have been held at the company's plant at the direction and under the supervision of the National Labor Relations Board two separate and successive elections for the unit defined by said Board as comprising the then hourly-paid employees of the Company to determine representation for the purpose of collective bargaining with their employer, and

Whereas, in such elections the Union received a majority not only of the ballots cast but also of all employees qualified to vote and embraced within such unit, and

Whereas, the Union desires to enter into agreement with the Company with respect to rates of pay, wages, hours, and other conditions of employment, and

Whereas, it is the purpose of this agreement to promote continuity of work by friendly relations between the Company and the Union:

Now, Therefore, in consideration of the premises, the parties hereto agree as follows:

1. Recognition: The Company recognizes the Union as the exclusive collective bargaining representative of all employees in the (4) unit defined by the National Labor Relations Board, namely, all hourly-paid employees and salaried inspectors (except supervisory inspectors and confidential clerks). During the term of this Agreement, in lieu of the Union's request for a closed



## Board's Exhibit No. 17—(Continued)

or Union shop or preferential hiring, all persons who are hereafter employed by the Company and who are eligible for membership in the Union shall be given by a Company representative before beginning work a copy of this Agreement, a Company Rule Book, and a Union membership application to which is attached a dues deduction order, to run for the term of this agreement, which membership and order the Company hereby recommends providing the total initial cost of such membership is not greater than \$5.00 and the dues are not greater than as set forth in Section 3 hereof. The Union agrees that there shall be no solicitation of employees for Union membership or for dues, fines, or assessments, on Company time, and that it will accept for Union membership for the term of this contract any present or future hourly-paid employee of the Company, and that the Union will not discriminate in any way against any employee because, before joining the Union, he may have opposed it or its acts in any manner. The Company agrees to distribute the above stated literature to all its present employees who are eligible for membership in the Union, and to recommend their joining.

2. Rates of Pay: Effective 9 August 1941, the minimum rate of pay of all present and future employees of the Company (unless an apprentice or training system is adopted) shall be 60 cents an hour for the first four weeks of continuous employment; 65 cents an (5) hour for the second four weeks of such continuous employment; 70

## Board's Exhibit No. 17—(Continued)

cents an hour for the third four weeks of such continuous employment; and 75 cents an hour after the twelfth week of such continuous employment.

An eight cent an hour bonus shall be paid all hourly-paid employees on night shifts, ~~and on regular day shifts which include both Saturdays and Sundays.~~

Leadmen shall be paid at least eight cents per hour more than the highest rate paid to employees regularly assigned to work under their supervision, and supervisors shall be paid ten cents an hour more than the highest rate paid to leadmen regularly assigned to work under their supervision.

3. Wage Rates: The Company and the Union will establish a joint committee to review hourly wage rates by mutual agreement in each department every six months, to meet during the months of April and October. This committee shall consist of six members, three from the Company and three from the Union who are Company employees. One of the Union members shall be rotated so that the Union committeeman of each department will serve as a member of the committee during the time the rates of his department are reviewed. In the event the joint committee is unable to reach agreement as to wages to be paid in any department, the matter will be submitted to the next general committee meeting with the management. In accordance with past practice, the Company will approve interim individual increases when justified, after consulting the foreman and

## Board's Exhibit No. 17—(Continued)

the Union committeeman of the department concerned. (6)

Effective 3 May 1941, the Company granted five cents an hour increase to every employee covered by this 12 June 1941 Agreement in lieu of all privileges under the 15 April 1940 Agreement.

Retroactive to 9 August 1941, in lieu of all privileges under the second and third paragraphs of Section 3 of this 12 June 1941 Agreement (which paragraphs are hereby cancelled), the Company grants thirteen cents an hour increase to every employee who was on 11 October 1941 receiving more than 65 cents an hour.

When ordered by an employee, the Company will deduct, either weekly or monthly at its election, the dues prescribed by the Union, the maximums of which are designated hereinbelow from the employee's pay and remit this amount to the Union. These deductions for dues will start within 10 days after the receipt by the Company of the employee's order and will stop with the termination of this Agreement, or within the week prior to the week in which the employee is terminated.

In no event shall the dues exceed 50 cents a week for journeymen mechanics and specialists (employees receiving a base pay of 80 cents an hour and over) and 35 cents a week for production workers and helpers (employees receiving a base pay of 79 cents an hour and less). No deduction shall be made in any week for dues if the employee's earnings, after deducting social security taxes, group insurance premiums, and

Board's Exhibit No. 17—(Continued)  
amounts due to the Company for tool sales, advances, etc., is insufficient to cover the full weekly deduction for such dues. (7)

4. Hours: The work week shall consist of forty hours of five consecutive days, from Monday through Friday, except for custodial employees such as maintenance men, guards, and janitors, and accounting and confidential clerks, when shifts are being rotated. With the exception of such employees, eight hours shall be worked within nine consecutive hours.

5. Overtime Pay: Work after eight hours on any shift shall be considered overtime, payable at time and one-half\* After three hours overtime on any one day and eight hours 11\* overtime on Saturday the sixth day\* (payable at time and one-half), double time shall be paid. With the exception of custodial employees, work on the seventh consecutive day shall be paid for at double time.

\*[Printer's Note: Underscoring appears in pencil. The word "Saturday" is circled in pencil and "the sixth day" is written in the margin in pencil. The words "eight-hours" are circled and figure "11" written in margin in pencil.]

6. Shift Rotations: Custodial employees who may be involved in both Saturday and Sunday work, may be rotated every fifth week after they have completed five consecutive days and have one day's rest thereafter without overtime penalty for the seventh day.

7. Recognized Holidays: The following shall be considered double time holidays: New Year's



## Board's Exhibit No. 17—(Continued)

Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

8. Representation: For each 500 employees, the Union may appoint one member to its shop committee, and a committee chairman for each shift. With the approval of the Union, each committeeman may select one steward for each 175 employees or major fraction thereof. The Union shall furnish the company an accurate list of all committeemen and stewards and keep the Company informed as to all changes therein. (8)

Marginal Notation—Section 9 amended Mar 5-1942.

9. Complaints and Grievances: The Company desires that unfairness to its employees shall not exist, and that complaints shall be settled with its foremen. No complaint shall be considered by the committee until taken up by the employee with the foreman concerned. In the event satisfaction is not obtained, the employee may present his complaint directly to the personnel director, or to the shop committeeman in his department, who may take up the same with the departmental foreman and if satisfaction is not obtained in this manner, the shop committeeman with the committee chairman may then take up the complaint with the company personnel director, who shall jointly take it up with the Factory Manager, and if not settled satisfactorily in this manner, it shall be submitted to the full committee. The Company agrees to meet with the committee the third Thursday of



## Board's Exhibit No. 17—(Continued)

each month to discuss the welfare of employees and to hear and settle any complaints. All grievances made to the full committee shall be submitted in writing, and signed by the complainant and by the department representative.

10. Discharge: When requested in writing by a discharged employee, the Company, following present practice, will furnish either the employee or the Union with the reason why such employee was discharged.

11. Regulations: The Union and the Company agree that the regulations set forth in the Company's Rule Book, attached to and made a part of this agreement, are necessary for the efficient operation of the Company's plant, and that infraction of any rule constitutes cause for discharge or disciplinary action. (9)

12. Intimidation and Discrimination: The Company agrees not to intimidate nor in any way discriminate against any employee because of Union activities; the Union agrees not to intimidate nor in any way discriminate against any employee not belonging to the Union.

13. Calls and Reporting: If a man is called other than for his regular shift or continuous extension thereof, he shall receive two hours' minimum pay.

14. Bulletin Boards: The Company will locate and supply on its premises sufficient bulletin boards for the use of the Union. The Union agrees to sign all its notices (which notices shall not malign the Company or employees), and to submit all no-

## Board's Exhibit No. 17—(Continued)

tices to the management for approval. The company agrees to post promptly each approved notice on all bulletin boards.

15. Union Activities on Company Property: The Union agrees not to distribute literature, handbills, or printed matter on company property.

16. Seniority: The Company, in accordance with past practice, will continue in lay-offs to recognize seniority where ability, production, and conduct have been equal.

17. Leaves of Absence With Pay: Each hourly-paid employee who has completed one year of continuous service with the company shall be granted annually a leave of absence with pay of 12 eight-hour work days (96 hours) which may be used by the employee as vacation, sick leave, or time-off with pay on recognized holidays that fall on regular (10) working days. An employee forfeits his time-off with pay if absent ten regular working days during the twelve-month period unless such absence is due to an authorized leave, physical disability, serious illness or death in the employee's immediate family, or compulsory jury, military, or naval duty, all subject to verification by the Company. Leaves with pay shall not be cumulative and must be extinguished within twelve months after the period of eligibility begins. The Company may grant an employee pay in lieu of time-off with pay. This pay shall be computed at the employee's regular hourly rate. The management will attempt to grant vacations at times

## Board's Exhibit No. 17—(Continued)

requested. However, the company may allocate certain times at which paid vacations must be taken. The employee must indicate in writing before the expiration of the pay week whether he desires to receive pay for the time lost during that week. Employees shall not be paid for fractional parts of a day. Termination of employment will automatically cancel the right of an employee to receive time-off with pay or to be recompensed therefor.

18. Leaves of absence Without Pay: In pursuance of the company's regularly established practice, leaves of absence without pay and without loss of seniority will be granted to employees for a length of time commensurate with the reason for such absence. The granting or disallowance of requests for leaves of absence shall be left entirely to the management of the Company.

Not more than six employees of the Company selected by the Union to do work for the Union which takes them away from their (11) regular employment shall be granted leaves of absence without pay of not more than 30 working days in each calendar year.

Leave of absence with seniority rights unimpaired shall be granted to full-time officers of the Union, provided such officers have had 12 months of prior continuous employment with the Company.

19. Transfers: Where an employee is transferred from one department to another and the

## Board's Exhibit No. 17—(Continued)

work performed is similar and the skill required the same, his rate will not be changed.

20. Efficiency and Production: The Union agrees to submit in writing from time to time recommendations for improving the efficiency and increasing the production of the plant.

21. Training Plan: The Company will immediately inaugurate a study of the feasibility of establishing a training or apprentice plan either as a company function or in collaboration with Federal and State educational authorities which will enable its employees to increase their skill.

22. Military Service: If any employee subject to this agreement shall enter military service by conscription under the Selective Service Training Act of 1940, and the Active Service Act, such employee shall be granted a leave of absence for the duration of service without loss of seniority rights. If the United States becomes actively engaged in war, any employee covered by this agreement who enters the military service either by conscription or voluntarily, shall be granted a leave (12) of absence without loss of seniority for the duration of his military service during the war. Upon termination of such military service, if such employees shall request re-employment and if production warrants such re-employment and if the employees are physically able to do the work available, the Company will re-employ such persons in preference to all other persons in their occupations with less seniority.



## Board's Exhibit No. 17—(Continued)

23. Arbitration: In order to protect the National Defense Program and the continuity of work for the United States Government, it is agreed that if any of the terms, provisions, or rates covered by this agreement are not settled satisfactorily by the parties hereto, the matter in dispute shall be referred to arbitration as follows:

The Company shall designate 2 representatives, and in like manner the Union shall designate 2 representatives. Said 4 representatives shall meet within 3 days after notification, and in the event that satisfactory settlement is not reached within 5 days after such notification, the United States National Defense Mediation Board shall be requested to designate a fifth member to the arbitration board. The decision of the majority of this arbitration board of 5 members shall be final and binding upon the parties hereto.

The Union agrees that there shall be no strike or slow-down, and the Company agrees that there shall be no shut-down or lock-out, while matters are being considered under this section. (13)

24. Boycott: The Union agrees that it will not permit its members to refuse to perform any work or handle materials or machinery or equipment because of the sources of supply or the Union affiliation or non-affiliation of the labor engaged in such supply or at such work.

25. Term: This agreement shall run two years from its date or for the period of the Unlimited National Emergency proclaimed by the President



Board's Exhibit No. 17—(Continued)  
of the United States on 27 May 1941, whichever  
is the longer, or until amended by agreement after  
15-day notice by either party. This agreement su-  
persedes the agreement of 15 April 1940, and all  
previous agreements, whether written or oral, be-  
tween the parties hereto.

CONSOLIDATED AIRCRAFT  
CORPORATION,

R. H. FLEET,  
President.

INTERNATIONAL ASSOCIA-  
TION OF MACHINISTS:

C. L. BENTLEY,  
Grand Lodge Representative.

INTERNATIONAL ASSOCIA-  
TION OF MACHINISTS,  
AIRCRAFT LODGE, No.  
1125:

WALTER J. CHUDLEIGH,  
Pres.

R. J. BRAGG

DON WILKERSON

JOSEPH J. BLAKE

N. R. PYEATT (14)

before\*

Sections 2 and 3 hereinabove show the higher  
pay-rates negotiated under the National Defense  
Mediation Board and agreed to 18 October 1941.

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\*Written in pencil.

Board's Exhibit No. 17—(Continued)

CONSOLIDATED AIRCRAFT  
CORPORATION,

R. H. FLEET,

President.

W. J. CHUDLEIGH,

President I.A.M. Lodge 1125.

R. B. FELTON,

Business Representative,  
District 22.

GEO. CASTLEMAN,

Vice-President International  
Assoc. of Machinists. (15)

Aeronautical Mechanics Lodge No. 1125

Business Offices and

Meeting Hall

1054 Third Avenue

San Diego, California

Meetings

Night Shift—

Mondays at 10:00 a. m.

Day Shift—

Tuesdays at 7:30 p. m.

Meetings Are Subject to Change  
(Union Label)

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Mr. Harrington: Mr. Pyeatt.

N. R. PYEATT,

a witness called by and on behalf of the National  
Labor Relations Board, being first duly sworn, was  
examined and testified as follows:

(Testimony of N. R. Pyeatt.)

Direct Examination

Q. (By Mr. Harrington) Will you give your full name to the reporter?

A. N. R. Pyeatt. [327]

Q. And your address?

A. 1133 Fourth Avenue.

Q. Are you an employee of the company?

A. Yes.

Q. How long have you been an employee?

A. 27 months.

Q. Where did you work?

A. In the tool room.

Q. Are you a member of the union?

A. Yes.

Q. Do you hold any position in the union?

A. Yes.

Q. What is that position? A. President.

Q. When did you become president?

A. The first week of January, 1942.

Q. Were you working in the plant in January, 1941? A. Yes.

Q. And were you working in the tool room department at that time? A. Yes.

Q. Who was your foreman at that time?

A. Mr. C. Taylor, Charles Taylor.

Q. Did you have any conversation with foreman Taylor during that month in respect to working on Sundays? [328] A. Yes, I did.

Q. When did you have that conversation?

A. It was the Saturday following the bombing of Pearl Harbor, which would be December 13, I believe.

(Testimony of N. R. Pyeatt.)

Q. When did you have that conversation?

A. About 2:00 o'clock in the afternoon.

Q. And where was it?

A. At my work bench.

Q. Who was present there?

A. None but just Mr. Taylor and myself.

Q. What was said in that conversation?

A. Well, Mr. Taylor said in view of the fact that I had one of the hottest jobs it may be necessary for me to work the following Sunday, and would I consent to do so, at which time I told him I would.

Q. What do you mean by "one of the hottest jobs"?

A. Well, the job was very necessary; it was a vital job; in other words, we generally term a "hot job" as a job that is needed badly; that is behind schedule.

Q. Did you have any other conversation about working on Sunday?

A. Yes, later in the day I did.

Q. Who with?            A. Mr. Taylor.

Q. What happened at that time?

A. And at that time Mr. Taylor came over and told me if I [329] would work the following Sunday that I would either have to work without pay or have time and a half pay, and he had a petition for me to sign, and he said in view of the fact that he had to work also, he would sign it first.

So, he laid it on the bench and leaned over and signed it and I leaned over and read a few words at the top and I told him in view of my position in the union, being a good union man, and it not being in

(Testimony of N. R. Pyeatt.)

the throes of our agreement, and wishing to abide by the agreement, which we had at that time, I would not sign the petition.

Q. What did the agreement have relative to Sunday work?

A. Our agreement stipulation was double time for Sundays and holiday work.

Q. Could you describe the petition?

A. There were a very few words at the top of it and about all that was said on the petition was that: "We, the undersigned employees volunteer to work Sunday, December 14, without pay."

Q. Were there signatures on that petition?

A. Just Mr. Taylor's was all at that time. In fact, he placed his signature on the petition in my presence at that time.

Q. After foreman Taylor signed that petition, then what happened?

A. Well, Mr. Taylor said that in view of the fact that I [330] wouldn't sign the petition I couldn't work, and I told him that satisfied me. So he took the petition and went on back to his desk.

Trial Examiner Hektoen: Just a minute; couldn't work when?

The Witness: On the following Sunday, that is, the following Sunday, if I wouldn't sign the petition I wouldn't be permitted to work the coming Sunday.

Trial Examiner Hektoen: I see.

Q. (By Mr. Harrington) You say you have been president since the first of the year?

A. Yes.



(Testimony of N. R. Pyeatt.)

Q. In your capacity as an officer of the union, have you taken up the discharges of employees in the company?      A Yes, I have.

Q. What discharges did you take up?

A. Well, several discharges: namely, those of Brother Fisher and Brother Mergen.

Q. When did you take up Fisher's discharge?

Mr. Riggs: I will object to this again as being immaterial and cumulative.

Trial Examiner Hektoen: Is there a new matter to be brought out?

Mr. Harrington: No.

Trial Examiner Hektoen: Is there a danger of its being [331] cumulative?

Mr. Harrington: It is along the same lines of the testimony that has been given by Mr. Phillips, I believe.

Trial Examiner Hektoen: It's a matter for your judgment. If you want it you may have it. If you don't, we ought to consider whether it is cumulative or not.

Q. (By Mr. Harrington) Have you heard Phillips' testimony here?

A. No, I haven't.

Mr. Harrington: I will not pursue the subject. I have no further questions.

Mr. Riggs: Nothing.

Trial Examiner Hektoen: Thank you, Mr. Pyeatt.

(Witness excused.)

Mr. Harrington: Mr. Perry.

L. A. PERRY,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Harrington) Will you give your name and address to the reporter?

A. L. A. Perry, and the address is 1460 Thomas Avenue.

Q. Are you a member of the union?

A. Yes. [332]

Q. How long have you been a member?

A. I have been a member for nearly five years.

Q. Do you hold any official position in the union?

A. Yes, I do. I am business representative.

Q. How long have you been business representative?

A. Since January 1st.

Q. Do you know Arthur J. Fisher?

A. Yes.

Q. How long have you known him?

A. Since April of 1940.

Q. Were you an employee of the company?

A. Yes.

Q. And where were you employed?

A. I was employed in the wing department.

Q. How long and when were you employed there?

A. In the company? I was employed in two periods: One started in November 30, 1936 until January 20 of 1939. And then I was reemployed on the

(Testimony of L. A. Perry.)

20th day of November, 1939 and I worked there until the 13th of January, 1941.

Q. In your work, were you in a position to observe Fisher's work? A. Not at first.

Q. Were you at any time?

A. I was the last three months I was in the employ of the company. He worked in the same area as I did. [333]

Q. What was your observation?

A. That he was a competent workman and created no disturbance and, further, conducted himself as any normal employee would that was interested in the work he produced.

Q. Did you hold any official position in the union at that time?

A. Yes, I did. I was recording secretary.

Q. As such, were you in a position to observe Fisher's conduct with respect to union matters?

A. Yes, if you refer to meetings, I was.

Q. What was his conduct?

A. His conduct was that of a union member that is much interested in the workings and the operation of the union.

Q. Is he an active member?

A. He was an active member and participated in practically every meeting.

Q. What sort of activities did he engage in?

A. The activities probably could be listed—

Mr. Riggs: I will object to this as immaterial.

Trial Examiner Hektoen: I think you may answer. What sort of activities did he engage in?

The Witness: In the union you have several dif-

(Testimony of L. A. Perry.)

ferent kinds of members. There are those that take a rather passive part, and do not attend meetings——

Trial Examiner Hektoen: What you are going to say is [334] that Fisher was very active?

The Witness: Fisher was very active, attended practically every meeting and took an active interest, frequently in a debate, and other items of similar importance.

Q. (By Mr. Harrington) And did you have anything to do with taking up Fisher's discharge with the company?

A. Yes. I finally entered into the picture shortly after becoming business representative, about the latter part of January.

Q. Did you engage in any correspondence with respect to Fisher's case?

A. In respect to his case the only correspondence that I had with the company was some time later, on the 19th of March I believe it was, if my memory serves me well.

Q. What was that correspondence?

A. That had to do with clarifying our understanding of the meeting that we had there with the labor relations manager, Mr. Wiseman.

Mr. Harrington: Will you mark this as Board's next exhibit for identification?

(The document referred to was marked as Board's Exhibit No. 18 for identification.)

Q. (By Mr. Harrington) I show you Board's Exhibit 18 for identification and ask you what that paper is.

(Testimony of L. A. Perry.)

A. That is the letter I wrote to Mr. Wiseman relative to [335] the case of Mr. A. J. Fisher, and that is my signature on that.

Q. How was that delivered to Mr. Wiseman?

A. Delivered in person.

Mr. Riggs: The date?

The Witness: The date it was delivered?

Mr. Riggs: No, the letter.

The Witness: The 19th of March.

Q. (By Mr. Harrington) And did Mr. Wiseman accept delivery of this?

A. Yes. I gave it to him and then he read it and returned it to me.

Mr. Harrington: I offer Board's Exhibit 18 for identification as Board's Exhibit 18 in evidence.

Trial Examiner Hektoen: Do you have any objection?

Mr. Riggs: No, sir.

Trial Examiner Hektoen: It will be received without objection.

(The document heretofore marked for identification as Board's Exhibit No. 18 was received in evidence.)

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BOARD'S EXHIBIT No. 18

P. O. Box 631

Aeronautical Mechanics Lodge 1125

I. A. of M.      District No. 22

A. F. of L.

Phone M 0979

1054 - 3rd  
San Diego, California



(Testimony of L. A. Perry.)

RE. The case of A. J. Fisher against Consolidated Aircraft Corporation

March 19, 1942.

Mr. H. R. Wiseman,  
Labor Relations Director,  
Consolidated Aircraft Corporation,  
San Diego, California.

Dear Sir:

To confirm a portion of our discussions of the above case, I refer to a meeting between you and I accompanied by Mr. R. B. Felton, Representative of District Lodge 22, I.A. of M. We understood you to make a statement, "that under no circumstances would Mr. Fisher be reinstated by the Company nor would the Company discuss the case further under any provision of our Agreement."

If no written answer to the above is received on or before March 24, 1942, I shall consider the above understanding I have of the case to be correct.

Very truly yours,

AERONAUTICAL MECHANICS

LODGE 1125

L. A. PERRY

Business Representative

LAP:ap

Collective Bargaining Agent for the Employees of  
Consolidated Aircraft Corporation  
(Union Label)

(Testimony of L. A. Perry.)

Q. (By Mr. Harrington) You say you presented it to Mr. Wiseman?      A. Yes.

Q. Then what happened?

A. He read it and handed it back to me. He said he did not [336] intend to accept it nor did he intend to answer it, as he considered it a legal trick.

Q. Have you ever received an answer to that letter?      A. No, sir; I never did.

Q. Do you know if Wiseman had authority to make a decision with respect to the Fisher case?

A. It is my understanding——

Mr. Riggs: I object to that.

Trial Examiner Hektoen: He may answer if he knows. Do you know?

The Witness: Yes, I do.

Trial Examiner Hektoen: What is your answer?

The Witness: The answer was: He did.

Q. (By Mr. Harrington) How do you know he did?

A. By participating in a meeting early in January relative to clarification of the company's policies regarding items of that and similar nature.

Q. Who was present at that conference?

A. At the conference, for the union, they consisted of myself, and Mr. Bruce and Mr. Phillips and Mr. Wilkerson and Mr. Pyeatt and Roy Brown for the International Association of Machinists.

Q. What occurred at that meeting?

A. At that meeting, it was held primarily so that we might have an understanding as to the company's policy and the [337] company informed us that Mr. Glenn Bowers and Mr. D. J. Fleet and Mr. Wiseman

(Testimony of L. A. Perry.)

were to have the power to say "Yes" or "No" to the normal labor relations problems, providing they didn't involve the changing of the agreement, which would be granting concessions, as the company stated it. There was to be no concessions under the agreement granted without the authority of Mr. Laddon.

Q. Do you know A. L. Hogan? A. Yes.

Q. Is he an employee of the company?

Mr. Riggs: What was that name?

Mr. Harrington: Hogan, A. L.

The Witness: Mr. Hogan was an employee of the company, yes.

Q. (By Mr. Harrington) Did you have any contact with him in respect to working hours at the Consolidated plant? A. I did.

Q. When was that?

A. That was, to the best of my recollection, on Saturday, December 13, 1941.

Q. What happened at that time?

A. At that time we received a phone call. I say "we", Mr. H. C. Brown and myself received a phone call from Mr. Hogan at the plant.

Q. Who is H. C. Brown? [338]

A. H. C. Brown was our publicity director, so-called, at that time; and he and I happened to be the only official members present in the hall.

Q. In the union hall?

A. In the union hall, yes.

Q. What was that telephone conversation?

A. It was relative to the circulating of petitions which were to be used as evidence that the employees desired to work on the following Sunday, which was

(Testimony of L. A. Perry.)

the 14th, at time and one-half, due to the national emergency that had then been created by the declaration of war.

Q. What did you do as a result of this telephone call?

A. As a result of the telephone call we immediately called M. J. Torreys, who was the shop chairman for the Home plant and inquired of him as to the authenticity of the conversation we had with Mr. Hogan, not wishing to go on one man's statements. We would rather have additional evidence. [339]

Q. What did you learn as a result of that?

A. From Mr. Torreys we learned that petitions were being circulated and from him also, we learned that there had been statements made by some of the employees that they would work for nothing on Sunday if needed, but for the purpose of getting out these ships in question which were badly needed then by the Government.

Q. Did you take any further steps?

A. At that time we immediately contacted Mr. M. J. Cassell and told him the seriousness of the situation, and together we advised that we have an emergency meeting of the executive board.

Q. Who is Cassell?

A. Cassell is vice president of the Lodge, was at that time.

Q. Did you hold this meeting of the executive board? A. Yes, we did.

Q. What occurred at that meeting?

Mr. Riggs: I object to all this as being immaterial and cumulative.

(Testimony of L. A. Perry.)

Mr. Harrington: I don't believe this matter has been gone into before.

Trial Examiner Hektoen: I think we might be interested in what occurred at the meeting. The objection is overruled. Or, at least, we will be interested in what action was taken [340] at the meeting.

Q. (By Mr. Harrington) What action was taken at that meeting?

A. The action taken at that meeting was to clarify our position as to whether or not we were to agree to allow our membership to work on Sunday. And, we agreed to allow the membership to work on Sunday, and we would take the matter up as to what action would be taken from the side of the company, on Sunday afternoon at the executive board meeting. We adjourned then——

Q Did you have an executive board meeting on Sunday afternoon?           A Yes, we did.

Q. What action was taken at that meeting?

A. At that time the executive board instructed Mr. W. J. Chudleigh, who was our president at that time, to file charges with the National Labor Relations Board against the company in respect to violation of our agreement.

Q. Did you attend any meetings in your official union capacity with respect to interim individual increases of employees?

A Yes. I attended one in January and——

Q. What happened at that meeting?

A. At that meeting it was brought out by the union that the company, in the form of Mr. Laddon,



(Testimony of L. A. Perry.)

had issued, in [341] November, right after we had received a blanket increase in pay, had issued a memorandum to the department heads which, to the best of my recollection, read somewhat as follows: That the foremen were not allowed to give interim increases in pay at that time.

We objected seriously to that, and Mr. Laddon agreed to withdraw that, in the form of another directive to the department heads, which directive would be that they could grant interim individual increases in accordance with our contract.

Q. Did you attend any meetings at which the overhead crane operators were discussed?

A. Yes, sir.

Q. When was that meeting held?

A. The meeting was held, to the best of my recollection, early in February at the parts plant, in the conference room there.

Q. What occurred at that meeting?

A. At that time that we brought up the overhead electric crane operators, we called to the attention of the company that action by the company and the union committee may, in connection with our 1941 review, that there had been established a basic rate of pay for crane operators, and that it had been applied in the case of the crane operators that at that time were working in the home plant; but the crane [342] operators that were transferred to the parts plant, after it opened there in July of 1941, that that rate did not hold good.

And the comment was made by George Newman,

(Testimony of L. A. Perry.)

plant manager, that he intended to run the plant as he saw fit.

Q. Did you take any further action on the matter?

A. On the matter, we had a series of grievances, and in the course of action on these grievances did address a letter to the company, to go into the step of our agreement that calls for arbitration under Article 23.

Q. Who addressed that letter?

A. I addressed it to Mr. Wiseman.

Mr. Harrington: Will you please mark this as Board's next exhibit for identification?

(The document referred to was marked as Board's Exhibit No. 19 for identification.) [343]

Trial Examiner Hektoen: On the record.

Q. (By Mr. Harrington) I show you this letter which I have had marked as Board's Exhibit 19, and ask you if you have seen this letter before?

(Handing exhibit to the witness.)

A. Yes, I have.

Q. And what is that letter?

A. That letter is a letter I sent to Mr. Wiseman.

Q. And what is the date?

A. It is dated on the 21st day of February 1942.

Q. Signed by you? A. Signed by me, yes.

Mr. Harrington: I offer Board's Exhibit 19 for identification in evidence as Board's Exhibit 19.

Trial Examiner Hektoen: Any objection, Mr. Riggs?

(Testimony of L. A. Perry.)

Mr. Riggs: None.

Trial Examiner Hektoen: It may be admitted without objection.

(The document heretofore marked for identification as Board's Exhibit No. 19 was received in evidence.)

BOARD'S EXHIBIT No. 19

(Copy)

Consolidated Aircraft Corporation

Lindbergh Field, San Diego, Calif.

(Letterhead of the Aeronautical Mechanics  
Lodge 1125)

February 21, 1942

Re: Base Rate for Overhead Crane Operators

Mr. H. R. Wiseman,

Labor Relations Director,

Consolidated Aircraft Corporation,

San Diego, California

Dear Sir:

More than two weeks have elapsed since your attention has been called once more to the series of grievances relative to the failure of the company to put in force a basic hourly rate for all Overhead Electric Crane Operators which is now 93c per hour, which rate was agreed to between the Union and the Company as follows: the base rate of 75c per hour was set in conference between the Union and the Company in May 1941, plus a blanket in-

(Testimony of L. A. Perry.)

crease of 5c per hour, agreed to between the Union and the Company on June 12, 1941, plus a blanket increase of 13c per hour agreed to between the Union and the Company on October 11, 1941.

Immediate action on the part of the Company on the subject matter involved was requested by the undersigned. To date, no apparent decision has been handed down, therefore, we are taking this means of notifying the Company to designate two members to the Board of Arbitration to match two of our Representatives as outlined in Section 23 of our Agreement, to meet not later than Wednesday evening, February 25, 1942, for the express purpose of considering the evidence presented.

Very truly yours,

AERONAUTICAL MECHANICS

LODGE 1125

s/ L. A. PERRY

Business Representative.

LAP:ap

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Q. (By Mr. Harrington) Did you receive any reply from Wiseman to this letter?

A. No, I didn't receive a written reply.

Q. Did you receive a verbal reply? [344]

A. I did upon calling him by telephone.

Q. And what happened at that time?

Trial Examiner Hektoen: And when was it?

Mr. Harrington: Yes.

(Testimony of L. A. Perry.)

The Witness: That call by telephone was approximately three days afterwards, to the best of my recollection. I waited that length of time for a reply and the company at that time was not replying in writing for some unknown reason.

Trial Examiner Hektoen: What did Wiseman say?

The Witness: As far as the reply to the letter was concerned, Mr. Wiseman statement by telephone was that the company had nothing to arbitrate and were not going to set up a committee for that purpose upon our request.

They considered that the matter was entirely irrelevant and they were not going to consider it.

Q. (By Mr. Harrington) Was there any more to the conversation?

A. The conversation at that time—I do not recall any additional item.

Q. Has anything been done about that matter since?

A. After that I consulted with Mr. William R. Walsh of the National Labor Relations Board relative to section 8(5) of the National Labor Relations Act, asking him inasmuch as I was rather new at the job just how to go about handling a situation of that kind. [345]

Mr. Riggs: I object to this.

Mr. Harrington: Well, I may be able to shorten this then by asking what is the status of the matter at the present time. That is what I was really after.

The Witness: The status of the matter at the



(Testimony of L. A. Perry.)

present time was that we had decided that the Wage Review, which we had negotiated in the contract since January 1st, was to take care of that item and the company agreed to let it go at that.

Q. (By Mr. Harrington) That is the status at the present time?

A. That is the status of the case today and while it didn't meet with our approval, nevertheless, we were not in a position then to say that we should go on to the fullest extent. It would not be practical.

Mr. Harrington: I have no further questions.

#### Cross Examination

Q. (By Mr. Riggs) Well, has the Wage Review Board taken up and considered the case of Crane operators since that time?

A. They have considered the cases of crane operators. There was some interim adjustment made in crane operators. The company was not adverse to doing that as far as I could tell.

However, they did not adjust them on the basis that they were set forth in the conference of May 1941, however.

Q. They didn't adjust them upon that basis but they adjusted them upon some basis after negotiations with the union? [346]

A. Yes, in a general line with other types of employment.

Q. Now, does the matter come up before the Wage Review Board according to the contract every six months? A. That is correct.

(Testimony of L. A. Perry.)

Q. When each man is reviewed, is that correct?

A. That is correct. It was felt the continuous Wage Review would eliminate considerable of this type of grievance, we might say, wage grievances.

Q. Now, in October 1941 everyone in the company received a blanket increase of 13 cents per hour, did they not? A. That is correct.

Q. And it was subsequent to that blanket increase that Mr. Laddon published a notice to the effect they were not going to have any more interim increases until the six months review came around, wasn't it?

A. There was no such a thing then as a Wage Review. We subsequently negotiated that after the first of the year.

Q. Is this a copy of the memorandum, that I show you, that you refer to in your testimony about stopping interim increases?

(Handing exhibit to the witness.)

A. I believe that that is the one because the date seems to be very familiar. However, the subject matter as to detail is not.

Trial Examiner Hektoen: Referring to Board's Exhibit what?

Mr. Riggs: This is a respondent's exhibit and I asked [347] to have it marked for identification as Respondent's Exhibit No. 4. It is a memorandum to all department heads dated November 11th, 1941.

"Subject: Policy with regard to interim wage increases," and it is signed by I. M. Laddon.

(Testimony of L. A. Perry.)

(The document referred to was marked as Respondent's Exhibit No. 4 for identification.)

Mr. Riggs: I offer that in evidence.

Mr. Harrington: No objection.

Trial Examiner Hektoen: It may be admitted without objection.

(The document heretofore marked as Respondent's Exhibit No. 4 for identification, was received in evidence.)

RESPONDENT'S EXHIBIT No. 4

(Copy)

No. 8

Consolidated Aircraft Corporation  
Lindbergh Field, San Diego, Calif.

November 11, 1941

Memorandum to All Department Heads

Subject: Policy with Regard to Interim  
Wage Increases

My understanding of Major Fleet's instructions with regard to interim wage increases is that there are not to be any and the current review is to take care of all salaried and hourly employees until April 1942. The one exception to the above rule is change of status of the employee, e.g., when a mechanic is promoted to leadman or leadman to supervisor or assistant foreman. In such cases the employee shall be on probation for a period of four weeks and in the event that he proves capable of handling the increased responsibility, a non-retroactive increase may be put through defining the change in status. Such increases, whether hourly

(Testimony of L. A. Perry.)

or salary, are to be OK'ed by Major Fleet or, in his absence, by myself.

(s) I. M. LADDON

P.S. For your own guidance only and not for general distribution.

Copy to: F. A. Learman

D. G. Fleet

W. Shanahan

C. T. Leigh

R. Mayer

IML:R J. C. Kelley

J. Thompson

Geo. Newman

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Q. (By Mr. Riggs) This bulletin speaks of the current review which was then going on, doesn't it? Does that refresh your recollection that there was such a thing?

A. The current review was referred to—no doubt it is the review that was to have taken place in accordance with the agreement prior to the time that he blanket increase was negotiated.

Q. And also the agreement provided that there should be a review every six months, didn't it?

A. I believe that that is correct as near as I can recall.

Q. And this provided or states that there wouldn't be any review, that the current review will take care of everybody [348] until April of

(Testimony of L. A. Perry.)

1942 and that was for the next six months period, was it not?

A. Yes. The blanket increase was to take care of that particular review period as well.

Q. And the union objected to this in the conference with Mr. Laddon in January?

A. Objected to that attitude on the part of management.

Q. That there would be no interim increases?

A. Yes.

Q. And Mr. Laddon reversed himself in an exhibit that is in evidence here, I believe?

Mr. Riggs: That is, they objected to the attitude that there would be no interim increases between the six months period?

The Witness: Yes, sir, as it was contrary to the terms of our agreement.

Q. And Mr. Laddon issued a memorandum in accordance with the union's position?

Trial Examiner Hektoen: On January 22nd, is that correct?

Mr. Riggs: Yes.

Trial Examiner Hektoen: Which is Board's Exhibit 7.

Q. (By Mr. Riggs) Are you familiar with that, Mr. Perry?

A. I am familiar with that one although it was issued somewhat later than it was agreed to there at the meeting, however. [349]

Q. Now, when you had a meeting of the union committee on Saturday, December 13th, when you



(Testimony of L. A. Perry.)

heard about the circularization of this petition, did you say that the union committee agreed to let the members work on Sunday for time and a half?

A. The committee agreed to allow the members to work and we would discuss what they were to be paid later.

Q. There was no agreement on the part of the union that they should receive time and a half?

A. No. The only discussion there was as to whether or not we were to picket that place and we decided in the emergency—everybody was a little bit upset as you probably realize, and we had to try and keep a cool head there because our membership naturally wouldn't know just exactly what to do, so we clarified the situation and that is why we passed out the handbills in the morning relative to telling them to go to work but be sure and punch their time clocks.

Q. Well, then in the afternoon of Sunday did you have a meeting which reversed the previous action?

A. No. It just merely clarified what we intended to do. In other words Saturday we didn't know just exactly what we were going to do.

Q. Do you know whether anybody worked on that Sunday? A. Yes, they worked.

Q. What did they receive; time and a half or double time?

A. They received their double time in accordance with the [350] contract at a later date.

Q. So that everybody that did work and wanted

(Testimony of L. A. Perry.)

to work received, eventually, the double time for that particular Sunday?

A. Yes, sir. The reason that we contacted these employees by handbills to punch their timecards was that we wanted evidence on record of that time.

Q. And there were certain departments that were circularized in which there were bottlenecks in which the union knew about it?

A. I believe there were certain departments that did work because there were certain things there they were behind in.

Q. Well, what we would call bottlenecks that had to be gotten up to the current production?

A. That is correct.

Mr. Riggs: I have nothing further.

#### Redirect Examination

Q. (By Mr. Harrington) Mr. Perry, I believe you said that the crane operators cases had been adjusted in wage conferences. Have those been individual adjustments? A. They have.

Q. Or mass adjustments?

A. They have. As soon as this action on the part of Mr. Wiseman was consummated then we debated with Mr. Walsh as to the exact action and his statement was that the National [351] Labor Relations Board——

Mr. Riggs: I object to what Mr. Walsh said.

Trial Examiner Hektoen: Sustained. You say they have been settled on an individual basis?

The Witness: They have been settled on an individual basis, to the best of my knowledge.

(Testimony of L. A. Perry.)

Q. (By Mr. Harrington) As to Respondent's Exhibit No. 4 from Mr. Laddon to all department heads, stating that there isn't to be any more interim wage increases, was this matter taken up with the union before it was put into effect?

A. No, it wasn't.

Q. The union was not consulted on the matter?

A. No.

Mr. Harrington: I have nothing further.

Trial Examiner Hektoen: That is all; thank you.

(Witness excused.)

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Mr. Harrington: Mr. Examiner, I seem to have run out of witnesses. Mr. Phillips tells me he is trying to get them. I have three more witnesses.

Trial Examiner Hektoen: We will be in adjournment until such time as they appear.

(Thereupon, a short recess was taken.)

Trial Examiner Hektoen: The hearing will be in order.

There being no further witnesses available this afternoon, by common consent we are adjourned until 10 o'clock [352] tomorrow morning.

(Whereupon, at 4:10 o'clock p.m., September 2, 1942, an adjournment was taken until 10 o'clock a.m., Thursday, September 3, 1942.)

[353]

(Testimony of L. A. Perry.)

Conference Room,  
Chamber of Commerce Building,  
San Diego, California,  
Thursday, September 3, 1942.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10:00 o'clock a.m. [354]

Trial Examiner Hektoen: We will be in order, please.

Mr. Harrington: Mr. Shannon.

EVERETT MARTIN SHANNON

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Harrington) What is your name?

A. Everett Martin Shannon.

Q. And your address?

A. Curtis Apartments, 525 Kalmia Street.

Q. Are you here in response to a subpoena?

A. Yes, sir.

Q. Are you an employee of Consolidated?

A. Yes, I am.

Q. What type of work do you do?

A. Timekeeping.

Q. How long have you been employed there?

A. Just about two years.

Q. Are you a member of the union?

A. Yes, I am.

Q. How long have you been a member of the union?

(Testimony of Everett Martin Shannon.)

A. It will be close to two years, a good year and a half.

Q. Do you hold an official position in the union?  
[356]

A. I am committeeman in the timekeeping department, 52.

Q. How long have you been a committeeman?

A. Six months.

Q. What are your duties as committeeman?

A. Well, they are primarily to sit in on wage reviews to handle grievances and sign any wage increases, interim increases.

Q. Who do you sit in on wage reviews with?

A. Mr. Shannahan.

Q. What is his title?

A. He is treasurer of the company. He is head of the accounting department under which we are.

Q. Have you had discussions with Mr. Shanahan during wage reviews?

A. Yes, many of them.

Q. When would this be?

A. I have had them before wage reviews.

Q. When were the wage reviews held?

A. They have been following on about the first day or so of each month. We are at the beginning of the months always; like, I go in again tomorrow.

Q. When was the last wage review?

A. It was at the beginning of last month; yes, the first week of July—August.

Q. Have you had a discussion with Shanahan during those [357] wage reviews concerning the union?  
A. Yes, sir.



(Testimony of Everett Martin Shannon.)

Q. When was that?

A. Generally preceding going into the wage review room,——

Q. Can you place before which wage review it was?

A. Yes, before the very first wage review I know we had a discussion.

Q. When was it?

A. That would have been in April.

Q. Where was that discussion?

A. That was in an ante-room just off the wage review room.

Q. And who was present?

A. Mr. Shanahan and myself.

Q. What was said in that conversation?

A. As I remember it, the first thing he said was that: "What do you want to be in this for anyway? Do you know," he said, "I have had you older men in the timekeeping department in line for advancement." And he said, "You know you are sacrificing your chances for advancement."

Q. Was anything else said?

A. Yes, there were. There were many other things.

Q. I mean with respect to this subject.

A. Well, he also suggested why didn't I drop it. What was it going to get me.

Trial Examiner Hektoen: What did he say? We want it [358] in his own words, so far as is possible.

The Witness: That's hard to place, exactly.

(Testimony of Everett Martin Shannon.)

Q. (By Mr. Harrington) Tell us what he said as closely as you can.

A. He said: "What's it going to get you?"

Q. Did you say anything to that?

A. Yes. I said, "I have been there a year and a half and it hadn't got me much up to that point."

So, I said, "It wasn't for what it was going to get me, that I was there in the capacity of a representative, or spokesman, of the group I represented, and as a union representative, and he shouldn't take it out on the men." I made that very clear from the beginning.

Q. Was there anything else said in that conversation on this subject?

A. No, I wouldn't say there was any more. I think that covers it.

Q. You say you have had many conversations with him. When was the next one?

A. It was preceding the next review.

Q. That would be when? A. In May.

Q. Where was that conversation?

A. That was in the same room.

Q. Who was present at that one? [359]

A. Mr. Shanahan and myself.

Q. What was said in that conversation?

A. Well, the first thing in that conversation was that he hauled out his list of men that were up for wage review and asked me if I wouldn't sign the raises.

Q. Did he say anything else?

A. Well, yes. He suggested we go into the wage

(Testimony of Everett Martin Shannon.)

review room, that we bicker and argue so much and don't get any place; and he suggested we could eliminate that and do it right there.

He has always been very busy and he hasn't had time, and he evidently wanted to get going.

Q. Did you make a reply to that?

A. Yes, I did. I said I couldn't do that even if I had wanted to. It was to be done in the wage review room in the presence of other witnesses for the union and the company.

Q. Was there any further conversation?

A. Well, he tried to insist, and give me the list to look over, and he said they were going to get raises. They weren't.

Mr. Riggs: What was that?

The Witness: They weren't.

Q. (By Mr. Harrington) Did you have any other conversation with Shanahan about wage review?

A. Well, he went into all of the cases that are up for the Court here, I believe, in regard to—he wanted me to understand why all these men were shifted around. He said it was [360] not union intimidation.

Q. What do you mean by the men being shifted around?

A. He was telling me about all these cases, explaining them to me.

Q. What were those cases?

A. Barnes, Blake, Al May, timekeepers that had been shifted in departments.

(Testimony of Everett Martin Shannon.)

He said he had been accused of intimidation and he asked me if I had been intimidated, and I said: "Not so far, I guess."

Q. Did you have any other conversation with him about wage reviews?

A. Yes, I did. I believe it was following that very review.

Q. That would be about when?

A. That would be June.

Q. Where was that?

A. That was right outside the front of the building on his way out.

Q. Who was present?

A. Mr. Shanahan and myself.

Q. What occurred at that time?

A. Well, he told me in no uncertain terms that I was to stay out of the tabulating and auditing departments. I had been in to contact the union men that were on my wage review list which I had a right to do. I wanted to see what work [361] they were doing and what their lead men had to say of their abilities.

Q. Just what did he say, so far as you can recall?

A. He threatened me then. It is something very vague to me, but to the effect——

Mr. Riggs: I object to that.

Trial Examiner Hektoen: Objection sustained. We want to have his words, rather than your conclusions.

(Testimony of Everett Martin Shannon.)

Q. (By Mr. Harrington) Give us his words as nearly as you can recall them.

A. He told me I was treading on thin ice. He said he could make trouble for me, probably get me removed as committeeman. I couldn't understand it at all. [362]

Q. Did you understand what he meant by making trouble for you?

A. Well, yes. He was threatening me to keep out of the auditing and tabulating departments.

Q. He was threatening you? What did he say? That is what we are interested in.

A. I was told in no uncertain terms that I was not to go in there.

Q. Well, had you gone into the tabulating department? A. Yes, I had.

Q. And why had you gone in there?

A. I went in to contact these men on my wage review list every month to see what type of work they were doing and in what regard their work was held so I knew how better to deal with them in the wage review.

Q. Are you permitted to do that?

A. Yes, sir.

Q. By whom? I mean who had given you permission to contact these men?

A. Well, I would tell Ted Ellis, the head time-keeper.

Q. And you have had permission before?

A. Yes, sir; and then I also went to see the foreman in the department there, Art Andres.



(Testimony of Everett Martin Shannon.)

The Reporter: How do you spell that?

The Witness: A-n-d-r-e-s. I am not really sure of [363] that.

He also told me at that time that——

Q. Who, Shanahan?

A. In reference to this—Shanahan—that he had been in—he did go into the tabulating department immediately following the review and then came back and we walked out together; that he had been talking to Art Andres and Art Andres had a signed statement that I had been in there trying to coerce the men into joining the union.

Q. Did he explain what he meant by “coerce”?

A. Yes, that I had no business to contact those men to try to get them to join the union.

Q. Well, had you done so?

A. All I did—all I did was I went in to find out which were union members and which were not and at the time I asked them if they cared to be a union member and have me represent them as a union member.

Q. And for what purpose did you ask them that?

A. So I could represent them better.

Q. Did you have any further—any other conversations with Mr. Shanahan?

A. Before that, though, I went in to see Art Andres. Immediately following that Art said, “Well, look around.” He said, “Do you see anything here?” and I said, “No,” and he said, “I have nothing.” [364]

(Testimony of Everett Martin Shannon.)

Trial Examiner Hektoen: What does that mean?

The Witness: He had no statement.

Q. (By Mr. Harrington) Did you have any conversation with Shanahan—any other conversation about your union activities? A. Yes, I did.

Q. When was that?

A. That, I would say, was in June down at Mr. Shanahan's office in Plant No. 1.

Q. Who was present?

A. Just the two of us.

Q. What occurred there?

A. Well, I brought down two interim raise slips, I believe you would call them, where he wanted to—he sent up a four cent raise and a five cent raise for a Mr. Mason and Kreutschamp.

The Reporter: How do you spell that name?

The Witness: K-r-e-u-t-c-h-a-m-p—it is on that order.

Q. (By Mr. Harrington) Proceed.

A. And I was going down to see him in regard to his asking that I sign those interim wages increases.

Q. For those two men?

A. For those two men. Well, then, the first thing he said to me when I came in was, "Did you sign those raises?" [365]

Q. And did you make reply to that?

A. Yes, I did. I said, "No, not yet." I said "I wanted to talk to you about them first."

Q. And then what occurred? Was there a further conversation?

(Testimony of Everett Martin Shannon.)

A. Yes, there was. And then he said, "I didn't think you would sign them." He said, "That is why they were sent up to you; I was told that you would not sign them."

Q. Did he say who told him that?

A. No, he didn't.

Q. And then what happened?

A. Well, then, I went on to say that I hadn't said that I wouldn't sign them, but in all fairness to the union men I represented that were doing like work and men of like ability, that I had a list of those men down there that I felt should be given the same treatment. In other words, I did not intimidate the non-union man when he offered 7 cents for those men in the review. I had taken it with no objection, and that wasn't enough and one of the men had written a letter to Mr. Shanahan.

Q. Was there any further conversation at this time between you and Mr. Shanahan?

A. Yes, there was. He threatened that I should sign those before I left that room.

Q. Well, what did he say? When you say "he threatened" what did he say? [366]

A. He said, "You sign those raises before you leave this room."

Q. And then what happened?

A. I told him I would be glad to if he would take care of the union men in the same position, and I wanted to show him the list. He refused to even look at the list or to have anything to do with it. He went on along on a lengthy verbal barrage and raked me from stem to stern.

(Testimony of Everett Martin Shannon.)

Q. Can you tell what he said? We want his exact language as far as you can remember—as closely as you can remember.

A. I couldn't repeat that language very well.

Trial Examiner Hecktoen: Yes, you can. Tell us the best you can what he said.

The Witness: It didn't all have a bearing on this, I don't suppose.

Trial Examiner Hektoen: Never mind that, tell us what he said and don't be squeamish about any language.

The Witness: Well, he said to me, "Why don't you drop this whole thing?" I said—he said, "Drop the whole thing or get out of the department." He said, "Let someone have it that can handle it." He said, "I can't deal with you." He said, "We can't get together." He said, "You are the only committeeman that takes all these cases up to the master board," and he told me to go home and look at myself in the mirror. He said he didn't see how I could go away with [367] a conscience like that—didn't it bother me, and I said, "Absolutely not," it didn't.

It was all along those very lines. He was in a very ill mood.

Q. (By Mr. Harrington) What do you mean when you say "Take them up to a master board"?

A. Well, you see if the wages as offered by him are so terribly unsatisfactory in our mind and in the minds of the wage review board we, as a unit, either suggest passing it on to the next higher

(Testimony of Everett Martin Shannon.)

board or Mr. Shanahan's refusal to negotiate automatically sends it on up.

Q. Was there any other further conversation at that time?

A. Well, he did tell me when I left, he said that "You have those lists in and signed by tomorrow noon."

Q. And what happened then?

A. And he also said that he would get—he could give raises to anyone he wanted to, whenever he wanted to, and no one was going to stop him.

I told him that wasn't the idea of the thing. I said, "There is a regular procedure which you could go through to give these interim raises."

Q. Did anything else happen then?

A. I think that pretty well covers it.

Mr. Harrington: I have no further questions.

[368]

#### Cross Examination

Q. (By Mr. Riggs) When these interim increases come up, they come up first in a recommendation by the foreman of the department, do they not?      A. Yes, sir.

Q. And those are supplied to you, those recommended increases?

A. To the board, to the wage review board.

Q. They are supplied to you or the board first, which?

A. It is just given out to all of us.

Q. All of you?      A. (No response)

Trial Examiner Hektoen: This is a good point



(Testimony of Everett Martin Shannon.)

to spell this out. Let us find out who "All of us are" and all that.

Q. (By Mr. Riggs) In the wage review board, with reference to the accounting department—now confine yourself to the accounting department, as I understand it the department 52 of the accounting department is all located at the Parts Plant, is that correct? A. 52; yes, sir.

Q. And department No. 2 is located at Plant No. 1? A. That is right.

Q. Now, did you as committeeman have anything to do with the accounting employees outside of department 52? A. No. [369]

Q. Now, when these recommendations of the foremen for increases were handed to the board, what did the wage review board of Department No. 52 consist of?

A. Myself and two union members.

Q. Who were they?

A. Well, they varied depending on who the board was. They have changed the board a good deal and shifted the members.

Q. Who has changed the board? You mean the union representatives have been changed?

A. Yes, the executive board, sir.

Q. You mean the union has changed its representatives upon the board a good deal?

A. Yes, sir.

Q. Who were the company representatives?

A. If they were given to me I could remember their names.

(Testimony of Everett Martin Shannon.)

Trial Examiner Hektoen: Well, that isn't so important. How many are there? Are there three of them, too?

The Witness: About the first three reviews Mr. Shanahan and the company's attorney, I understood it was—I don't know, but at least I understood that.

Trial Examiner Hektoen: How many representing the company sat with you three union people?

The Witness: I would say two sometimes and then he had Mr. Vernon with him sometimes. That was on later reviews.

Q. (By Mr. Riggs) So the board consisted of three? You [370] always represented the union, didn't you? A. Yes, sir.

Q. And—as a committeeman?

A. Yes, sir.

Q. And the other two members changed from time to time? A. Yes, sir.

Q. And Mr. Shanahan, the head of the department, was he always there?

A. He was always there, yes, sir.

Q. Sometimes with one or two other people representing the company? A. Yes, sir.

Q. Now, when you got this list of recommendations made by the foreman, what did you do with it?

A. Well, they were given out one at a time. We discussed one at a time. You see, it is supposed to be an individual matter?

Q. I know that, but how did you know the names

(Testimony of Everett Martin Shannon.)

of the people that were going to come up in the wage review board?

A. Oh, I am furnished a list by the union of the men.

Q. That is what I mean. A. Yes, sir.

Q. How many days before the wage review board met would you be furnished with a list?

A. Oh, two, three, or five days—around there.

[371]

Q. Now, when you got that list I believe you went into the department, I think you said, to find out which were union and which were non-union men? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. And you talked to all of the men involved to see their qualifications for a raise?

A. Yes, sir.

Q. As to what they were doing?

A. Yes, sir.

Q. And I also think you said that when Mr. Shanahan offered seven cents for non-union men that you agreed right away. Is that right?

A. Yes, I did.

Q. And if it was a union man you didn't agree at once at all, did you?

A. Not always, sir, no.

Q. If he offered seven cents for a union man you insisted that he ought to get 15 cents?

A. There were a couple of union men that only got 7 cents.

(Testimony of Everett Martin Shannon.)

Q. I am not asking you that. I am asking if you didn't do that in every instance?

A. They didn't get any less——

Q. You listen to me. I am asking you if in every instance [372] where a non-union man was recommended for an interim wage increase by his foreman, that the union didn't accept it instantly?

A. I did.

Q. Except in the cases of Mason and Kreut-champ?

A. I did. I accepted them instantly.

Q. In all others you accepted them right away?

A. No, sir.

Q. Tell me what you did with them.

A. We negotiated first.

Q. And in the cases of union men who were recommended for a raise, say of 7 cents, wasn't it your invariable custom to demand that they get a larger amount?

A. I generally did try that, sure.

Q. Wasn't it invariable that in the case of a union man you demanded more money?

A. If their work was of better ability.

Q. No, you answer me. You tell me any case.

A. I base this on merit, the whole thing, union or non-union.

Q. You answer me. Any case of a union man who was recommended for a raise by his foreman while you have been committeeman, that you didn't ask the wage review board to give him more than the foreman recommended?

(Testimony of Everett Martin Shannon.)

A. I could if I had my list here with me. There were a lot [373] of them I took his recommendations. I wouldn't say "a lot" but there were some.

Q. How many out of ten? One?

A. That may be it. It all depended on the type of men that came up, sir. If they were new-hires we took 7 or 8 and therefore they got the same as the others.

Q. Mr. Shannon, listen to me. You are under oath. Will you swear that there was any case specifically that you can bring here tomorrow and show the examiner where the foreman had recommended a union man for an increase that you did not, on behalf of the union, ask the shop committeeman to demand more than that amount for that man?

A. Yes, sir; I can bring some.

Mr. Ryan: Mr. Examiner, I think that is wholly immaterial. This man was bargaining on behalf of the union; he wasn't bound by anything the foreman recommended. If he were the foreman would be the bargaining agent for the union.

Mr. Riggs: He was representing the bargaining agent for all the men in the plant, union or non-union and I propose to show that Mr. Shanahan's remarks were directed to preventing discrimination by the union against non-union men and coercion of non-union men to join the union.

The Witness: May I make a statement, sir?

Trial Examiner Hektoen: No, you have answered that question. You say you can furnish names of people whom you [374] didn't insist get



(Testimony of Everett Martin Shannon.)

more money than the rates recommended by the foremen?

The Witness: That is right, I can.

Trial Examiner Hektoen: All right.

Q. (By Mr. Riggs) When you contacted——

The Witness: But I want to say——

Q. (By Mr. Riggs) When you contacted the non-union men in the department to see whether the work they were doing would justify a raise, did you suggest to them that they might join the union?

A. Yes, sir; I did.

Q. Did you tell them that if they did join the union they would get a bigger raise?

A. No, sir. I told them I would—that is one thing we are not allowed to do, sir.

Q. Well, whether you are allowed it or not?

A. No, sir.

Q. Can you state that there was no occasion when you contacted a non-union man in your department about an interim raise that you didn't tell him if he joined the union you would see that he got a bigger raise than that recommended?

A. I always told them I would try.

Q. You always told them that you would try to get them a bigger raise than that recommended if they would join the union? [375]

A. I told them I would try to do the best I could do for them.

Q. If they would join the union?

A. No, sir.

Q. You never added that?

(Testimony of Everett Martin Shannon.)

A. You want me to tell you what—do you want me to tell you what I told them?

Q. I am trying to ask you in my own way as to what you told them.

A. If you will let me tell it in my own words I can tell it, sir.

Q. Did you, in talking to these non-union men—you say that you said you would try to get them a greater increase than that recommended if they joined the union?

A. No, sir; that isn't what I said, sir.

Q. What did you say?

A. I said I would go in and represent them as a union member.

Q. That on behalf of the union you would represent them and that you would try to get them a bigger increase than was recommended?

A. Yes, sir; that I thought I could better represent them.

Q. There was no suggestion made by you that they should join the union as the price of your representing them?

A. No, sir, never. There was no intimidation, never; no, [376] sir.

Q. Whether that was intimidation or not, did you suggest that they would get a better deal from the wage review if they joined the union?

A. No, sir.

Q. Now, didn't the wage review board operate in this way, that where a non-union man was recommended for a raise of 7 cents that the union com-

(Testimony of Everett Martin Shannon.)

mitteeman immediately agreed to that in almost all instances?

A. I wouldn't know, but I know I did. [377]

Q. Now, when it came to a union man being recommended for an increase, you first contacted—strike that if you please.

When it came to a union man being recommended for an increase, you would almost invariably, except in the cases you were going to bring in tomorrow, specifically suggest that you get more than the amount that the foreman recommended?

A. I would try, sir.

Q. Didn't that usually result in a compromise on the wage review board, with reference to the union man, so that they got more for the same kind of work than the non-union men got from the same board?

A. Some did, some didn't.

Q. In a great many cases it would result in that way, wouldn't it?

A. Yes, it would.

Trial Examiner Hektoen: Let this be off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Q. (By Mr. Riggs) In May you say Mr. Shanahan gave you, there was a list given to you of proposed wages to come before the wage review board, and he asked you to sign them without going through the machinery of the wage review board, and you refused, and stated they were not good raises. What do you mean by that?

(Testimony of Everett Martin Shannon.)

A. They were very unsatisfactory, but that's immaterial. [378]

Q. In what way were they unsatisfactory?

A. Why, they were three cents, and on that order. You see, I would be the judge of that. I know those men and their abilities, sir.

Q. You mean none of the raises were good raises? A. That is right.

Q. Did that list consist of union or non-union men, or both?

A. There have been very few non-union men. I believe there were only two: Mr. Mason and Mr. Kreutchamp.

Q. And they were the only two non-union men that you could recommend for interim raises, you mean? A. Yes, sir.

Q. During all the time you have been in office?

A. Yes, sir, and they were given the same as the others. It was no less. Therefore, I represented them as well as the union men. That's the point I wanted to bring across.

Q. I don't understand you when you say you got these lists monthly and you contacted the union and non-union men in the departments. You mean to say there were only two non-union men ever recommended for a raise?

A. We have signed all the men up. They are all union men, sir. I have worked.

Q. Were they signed up before or after this wage review board dealt with that in individual cases? [379]

(Testimony of Everett Martin Shannon.)

A. There were always members before the wage review.

Mr. Harrington: I think that once again we are getting too far afield.

Trial Examiner Hektoen: It seems to be just about concluded.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Anything more, Mr. Harrington?

#### Redirect Examination

Q. (By Mr. Harrington) When you went in to contact these men in the department, who sent you in, when you went in to contact them for wage reviews?

A. I told Ted, Ted Allison, the timekeeper, that I was going in to contact these men.

Q. What did you base your request for wage increases on?

A. On ability, on the job they were doing.

Q. What statement did you want to make during the cross examination?

Trial Examiner Hektoen: He has made it.

Q. (By Mr. Harrington) You have?

A. That was the idea, that there were other men that got 7 cents that were union men, so I say that they didn't get less than some of the union men, and I thought that was very satisfactory action on my part.

Mr. Harrington: I have no further questions.

Mr. Riggs: That is all. [380]



(Testimony of Everett Martin Shannon.)

Trial Examiner Hektoen: Let me ask some questions about this wage review thing.

Q. (By Trial Examiner Hektoen) Now, when a foreman makes his recommendations, is that list given directly to the union?

A. No, he has the list in front of him, sir.

Q. You find out about it four or five days ahead of time? A. Yes, sir.

Q. You say you found out about it from the union. Is that right?

A. I would presume it comes through the Labor Relations office, I believe, at Consolidated, Harry Rubin is the man.

Some of the union members or business agents could answer that better than I can.

Q. You get it through one of them?

A. Yes, I either get it through the hall—it is sent up, yes, sir.

Q. You and two others in your department,——

A. Not in my department, sir; they are permanent wage review members.

Q. You and two other union members, and Shanahan and one or two people for the company, get together and go over the thing?

A. Yes, that is the purpose of it.

Q. If you don't iron it out there, it goes to a master [381] committee of some sort?

A. Yes, there is a master board set up for cases that cannot be agreed upon between the company and the lesser board.

Q. Have you any experience with it?

(Testimony of Everett Martin Shannon.)

A. Yes, I have, a good deal.

Q. Is that procedure in here?

(Discussion off the record.)

Trial Examiner Hektoen: I have found it in the agreement, Mr. Shannon, and I don't need to pursue the thing any further.

Anything else?

Mr. Riggs: Yes. There is an intermediate step you skipped. That was when he gets the list, he visits his department and contacts the men and ascertains whether they are union or non-union men.

The Witness: The only ones I had to visit was the auditing and tabulating departments, because I am not acquainted with them. In the timekeeping department I know every one of them.

#### Redirect Examination

Q. (By Mr. Harrington) Mr. Shannon, are the names submitted to you or the amounts, or both, or either?

A. Yes, it is alphabetical.

Q. The list of names? A. Yes. [382]

Q. Are the amounts of the increases submitted to you?

A. Yes. He first submits what he has to offer.

Q. I see. Are the amounts submitted at the same time the names are submitted to you?

A. Yes, sir. He reads the name off. He has the sheet——

Q. You get the sheet before you go to the wage review board, don't you? A. Yes.

(Testimony of Everett Martin Shannon.)

Q. Do you get the amounts too, before you go in?

A. No, sir. I go in with an attempt to negotiate. I have no idea as to amounts. I may have some tentative figures.

Q. Where do you get those?

A. Where do I get those, sir?

Q. Where do you get the tentative figures?

A. You have to have an idea what you are going to ask for those men.

Q. I see. All you know when you go in there, in the absence of investigation by yourself, is that there is a list of, say, 7 or 10 people who are going to be talked about with reference to wage increases. Is that right?

A. Yes, sir. I know their duties and abilities.

Q. What we want to know is what is the information received by you, your union, from the company, whether that includes the tentative amount of the increases.

A. No, sir, that isn't there at that time. [383]

Q. All right.

#### Recross Examination

Q. (By Mr. Riggs) The first time you know the foreman's recommendations is when you get into the board? A. Yes, sir, that is right.

Q. At that time you know whether a man is a union or non-union man?

A. Yes, sir, I know.

Q. When he makes his recommendations, you are prepared to either accept it or ask for more?

(Testimony of Everett Martin Shannon.)

A. Yes, sir.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Thank you, Mr. Shannon.

(Witness excused.)

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Mr. Harrington: Mr. Thomas.

### HERVEY H. THOMAS

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. Harrington) What is your name?

A. Hervey H. Thomas.

Q. And your address?

A. 2244 G. Street.

Q. Are you employed by Consolidated? [384]

A. Yes, sir.

Q. For how long have you been employed?

A. About 27 months.

Q. Are you a member of the union?

A. Yes, sir.

Q. And how long have you been a member?

A. Between 26 and 27 months.

Q. Do you hold any position in the union?

A. Committeeman.

Q. Where are you shop committeeman?

A. Department 96, jigs and fixtures.

Q. How long have you been a committeeman?

(Testimony of Hervey H. Thomas.)

A. Very close to a year, maybe 10 months; it might be a little less or more.

Q. As union committeeman, do you on occasion have to leave your department on union business?

A. Yes, because the department is scattered all over the parts plant, and I very often have to go all over the building.

Q. What is your practice when leaving the department?

A. My practice is to go to the general foreman or assistant foreman and notify him I am going to leave, and that's the general practice; always going to him. He has stated to me when I become committeeman, I could leave at any time I wanted to, provided I didn't abuse that privilege. [385]

Q. Who told you that? A. Mr. Watts.

Q. Did you say anything about Rover's buttons?

A. I was to come to the clerk and get a Rover's button, yes.

Q. And you would get that from the clerk?

A. Yes, sir.

Q. Is Watts still the foreman?

A. He is assistant superintendent, and W. Plimpton is the general foreman.

Q. When did Watts tell you you could get a button from the clerk?

A. Shortly after I was appointed committeeman.

Q. What did he say?

A. He stated I could get a button from the clerk at any time for union business, and I shouldn't abuse the privilege, and it would be all right with him.



(Testimony of Hervey H. Thomas.)

Mr. Harrington: I have no further questions.

Cross Examination

Q. (By Mr. Riggs) When did Department 96 move up into the parts plant, Mr. Thomas?

A. Well, it's better than a year ago. That was 65 at that time.

Q. Was that about July of 1941 when the parts plant was finished? [386]      A. Yes, sir.

Q. You remember a bulletin that was put out some time in July about men roving around the plant?

A. Well, I couldn't say, because I was left down at the home plant to finish up a job I was on when they first went up there, and it was about a month or two after that.

Q. There is an exhibit here that says something about men roving around the plant, and there was an explanation given by some witness, I have forgotten who, who suggested the men were getting out of parts plant No. 2, down to the home plant, and wandering around. There is an overpass between the parts plant and the home plant, which was not finished at that time, and was not finished until some time in April of 1942, wasn't it?

A. That is right.

Q. If anybody wanted to go from the parts plant, which is a half or three-quarters of a mile down to the home plant, they would either have to take a bus or automobile. I believe even the street cars weren't running there at that time. Is that right?

A. That is right.

(Testimony of Hervey H. Thomas.)

Q. So that anybody going to rove from the parts plant down to Plant No. 1 would have to ride in an automobile?

A. I wouldn't know about that. I don't represent men in the home plant, so I wouldn't know about that. [387]

Q. I am not asking you about yourself personally. I just want to know about the conditions of the plant, being as far apart as they were.

A. The only way I ever went was to go to the foreman, who sent me there, and gave me a pass to go on the bus. That's how I did it.

Q. Nobody ever accused you of leaving your post unnecessarily for union business, have they?

A. No, sir.

Q. You have the confidence of Mr. Watts and Mr. Plimpton, haven't you?

A. Yes, sir.

Q. So far as you are concerned, you haven't abused the privilege, have you?

A. No, sir, the foreman complimented me on that in the last couple of months.

Q. I believe you said your jig and fixtures department is all over the parts plant?

A. It is more or less scattered all through the three buildings.

Q. All the three buildings?

A. Yes, sir.

Q. And when did Mr. Watts tell you you can leave the department at any time you wanted, getting a button from the clerk, providing you didn't abuse the privilege? [388]

A. I was first made committeeman, and I had a

(Testimony of Hervey H. Thomas.)

talk with him, and that has been nearly a year ago.

Mr. Riggs: That is all.

Mr. Harrington: I have no further questions.

Q. (By Trial Examiner Hektoen) Mr. Thomas, about how many times a week would you say that you got permission from your foreman or the assistant to go somewhere out on union business in the plant?

A. I would say it averaged around twice a week anyway since I have been committeeman, that I have went to the other buildings.

Q. You don't count when you leave your work or whatever you are doing and go some place in the same building?

A. I usually just tell the lead man I am going down, but it very seldom is ever necessary, because the men usually come to me where I am working.

Q. If you included those times that you went somewhere in your own building, about how many times a week would it be you went on union business?

A. It would be less than once a week. I can't remember of anything on union business—I can't recall any certain time I left our department; a half a dozen times in the last year.

Q. So it is usually about twice a week that you do leave on union business? [389]

A. That is right. I would say it averaged that. I have shop stewards, and lots of times something comes up and they call me on the phone. They usually call be on Mr. Watts' phone, and the clerk or the

(Testimony of Hervey H. Thomas.)

assistant clerk come and notify me I am wanted on the phone.

Q. No complaint has been made about your answering telephone calls? A. None whatever.

Q. (By Mr. Harrington) Mr. Thomas, how long did you say you had been a committeeman?

A. Well, I would say nearly a year. It might be 11 months. I don't recall.

Q. Before January 1 of this year when you had grievances who did you take them up with? Who was your next union man higher up that you took them up with?

A. Before that time the shop chairman of the committeemen was Mr. Fisher.

Q. And you took up your grievances up to him?

A. After I had thrashed it over with the foremen and we couldn't go no further, we went to Mr. Fisher.

Q. Who did the other committeemen take up their grievances with? A. With Mr. Fisher.

Q. In other words, all complaints were taken up with Mr. Fisher? [390]

A. After taking it up first with the foreman, before anybody was supposed to go into the personnel, or Mr. Larimore, or Mr. Newman, they were supposed to take it up with Mr. Fisher.

Q. How many other committeemen were there besides yourself?

A. There must have been 35.

Q. And all 35 men took their grievances up through Fisher?

(Testimony of Hervey H. Thomas.)

A. They were supposed to act through the shop chairman.

Mr. Harrington: I have no further questions.

Mr. Riggs: Nothing.

Trial Examiner Kektoen: Thank you.

(Witness excused.)